

# **Amnesty International's Concerns at the 57<sup>th</sup> session of the Executive Committee of the United Nations High Commissioner for Refugees**

**September 2006**

## **Introduction**

### **Refugees and Asylum-Seekers**

Amnesty International continues to document serious violations of the human rights of refugees, asylum-seekers, internally displaced persons (IDPs) and stateless persons. As an observer at the 57<sup>th</sup> session of the Executive Committee (ExCom) of the United Nations High Commissioner for Refugees (UNHCR) Amnesty International takes the opportunity to present some of its concerns to the ExCom members and observers.

55 years after the adoption of the 1951 Convention relating to the Status of Refugees (the Convention), the rights of refugees and asylum-seekers continue to be violated throughout the world. In many states, both parties to the Convention as well as others that have not yet ratified and implemented it, abuses of the fundamental rights of some of the world's most vulnerable people continue. Many governments are failing to provide refugee protection at the most basic level, including by knowingly returning individuals to countries where they are at risk of persecution (refoulement) and by failing to respect their right to life.

Despite the absolute nature of the prohibition of refoulement in international law and its applicability to all states, many states continue to ignore their obligations. Sometimes under the pretext of national security or as a sign of cooperation with others states, refugees, asylum-seekers, and other persons in need of international protection are forcibly returned to countries where they are subjected to various human rights abuses including torture and ill-treatment, incommunicado detention, unfair trials and even the death penalty. Throughout the past year, Amnesty International has documented numerous such cases, some of which are summarized in this document.

These incidents highlight the need to reassert the absolute nature of the principle of non-refoulement and to push for the ratification and implementation of the Convention. In the Middle East and South Asia, where the majority of states have not ratified the Convention, refugees and asylum-seekers are particularly vulnerable to human rights abuses. Also, some states parties to the Convention in other parts of the world have failed to adopt domestic asylum legislation and procedures and have to a great extent abandoned their responsibilities

towards refugees and asylum-seekers. The issue of non-accession and lack of legal frameworks is also raised in this year's Note on International Protection.<sup>1</sup>

Tragic incidents in the past year raise further serious concerns as to the extent with which some governments place neither value nor respect on the fundamental rights of refugees and asylum-seekers. Incidents that have led to the death of refugees, asylum-seekers and migrants in countries including Egypt, Morocco, and Spain have not been meaningfully investigated. Authorities in these countries have not taken adequate steps to determine and punish those responsible for these abuses or to implement adequate measures to ensure such abuses are not repeated.

As stated in this year's Note on International Protection "large-scale irregular migration in the Mediterranean region captured headlines, bringing into focus complex issues relating to the migration/asylum nexus." Amnesty International believes that one of the most important issues arising in this context is that the actions and policies of governments often result in denying asylum-seekers their fundamental rights to access to territory and/or to adequate procedures, which can in turn lead to individuals returning to face a threat to their life or freedom, or other serious human rights abuses. This is exemplified by the incidents in Ceuta (Spain) and Morocco, which are summarized in this document. Amnesty International calls on the concerned states, including member states of the European Union, to refrain from policies and practices that erode the institution of asylum and to instead ensure the protection of the rights of refugees and asylum-seekers in their countries, as well as promote the respect and protection of the rights of refugees and asylum-seekers globally.

States parties to the Convention who possess well-developed legal frameworks for asylum, including those in the European Union, need to reassert their absolute commitment to the protection of the rights of refugees and asylum-seekers and to signal that people fleeing human rights violations will not be rejected or abandoned.

Amnesty International calls on members and observers of the ExCom to emphasise the need for accession to the Convention in non member states and for the adoption of domestic legal frameworks implementing the Convention where they are absent.

Amnesty International calls on states parties to the Convention to ensure the full respect of the rights of refugees and asylum-seekers. In particular, Amnesty International calls on states to fully respect their obligations under the Convention and the customary norm of non-refoulement by giving asylum-seekers access to their territory and access to fair and satisfactory asylum procedures as well as respecting the full spectrum of human rights of refugees and asylum-seekers within their territory. In addition, Amnesty International urges all states to provide adequate training to law enforcement officials, especially in border areas and other entry points for asylum-seekers and migrants, with a view to ensuring that asylum-

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<sup>1</sup> Note on International Protection. Executive Committee of the High Commissioner's Programme, fifty-seventh session. UN Doc: A/AC.96/1024, 12 July 2006.

seekers are adequately protected from refoulement and are treated humanly, with full respect to their right to life.

### **Internally Displaced Persons (IDPs)**

This document also highlights several IDP situations. As they illustrate, IDPs are often caught in armed conflict and their lives continue to be threatened when parties to the conflict fail to make the distinction between combatants and civilians, or attack civilian populations because they view them as “collaborators”.

The range of human rights abuses to which IDPs are subjected to vary widely. In Darfur, IDPs in their thousands have faced killings, rapes, beatings and slavery. In Sri Lanka, in addition to the threat of violence and the lack of security, new regulations imposed by the authorities on work permits for foreign staff of non-governmental organisations (NGOs) as well as travel restrictions imposed by the Ministry of Defence have impeded the delivery of essential supplies and services. In Colombia, millions of hectares of land have been appropriated by army-backed paramilitaries since the mid-1980s, which is a further impediment to the return of IDPs.

Amnesty International calls on states where there are ongoing and protracted IDP problems to give the utmost urgency to the plight of those internally displaced. In the case of ongoing and protracted conflicts, civilians should be protected from attacks and international humanitarian law fully respected by all parties. Civilians should in no manner be used for political purposes or attacked because of their political affiliations. Governments and other parties to the conflict should give full access to humanitarian organizations. In the long term, authorities are required to safeguard the right of IDPs to return to their lands and homes in safety and dignity, as well as to compensation.

### **Stateless Persons**

Finally, the document looks at stateless populations in Estonia and Slovenia. In many cases, statelessness is perpetuated generation after generation with stateless persons often being marginalized in their own societies with severe restrictions on their ability to work, study, and achieve an adequate standard of living. In some situations, their social exclusion makes them vulnerable to human smuggling and trafficking. Many statelessness problems could easily be resolved if governments had the political will to do it. For example, in Estonia, where 10 per cent of residents are stateless, free language teaching in order to aid stateless persons in passing the language examination required for citizenship could be a step towards facilitating naturalization.

Amnesty International calls on members and observers of the ExCom, as well as other states, to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Amnesty International calls on states where stateless persons reside to take all necessary measures to reduce statelessness and fully protect their human rights.

The document highlights Amnesty International's concerns with regard to:

- Refugee issues including the the right to life (Spain/Morocco; Egypt) and non-refoulement (Thailand; Kyrgystan; Ukraine; Uzbekistan; Syria)
- IDP situations, including in Sudan (Darfur), Sri Lanka, & Columbia
- Stateless persons in Estonia and the “erased” in Solvenia

## **1. The right to life**

### **Killings and Expulsions of asylum-seekers in Spain and Morocco**

Amnesty International has documented and received reports of serious human rights violations against migrants and asylum-seekers trying to cross the border between Morocco and Spain at the Spanish enclaves of Ceuta and Melilla. Migrants and asylum-seekers trying to cross the border have been killed, law enforcement officials have used excessive force, collective expulsions have occurred, and the principle of non-refoulement has been violated. In the latter half of 2005, 13 people were killed at the border and many more were reportedly injured through ill-treatment. Many people who reported being injured either accidentally while crossing the two border fences or as a result of ill-treatment at the hands of the Spanish Civil Guard (Guardia Civil) were allegedly returned without first receiving medical treatment. On 29 September 2005, at least four people died after being shot as they attempted to cross the fence from Morocco into Ceuta in an area known as Berrocal, near the frontier post of Tarajal. It remains unclear from which side of the border the shots were fired, since neither the Moroccan nor Spanish authorities have acknowledged that their security forces were responsible for the deaths. Dozens of others were injured during the incident and later treated in hospitals in both Ceuta and Tetouan, Morocco.

While the Spanish and Moroccan authorities have begun investigations into the deaths, no results have as of yet been made public, nor are there sufficient guarantees that investigations are thorough, independent and impartial. Amnesty International is not aware that any precautionary measures were taken against those suspected to be responsible for the deaths and ill-treatment. On 3 July 2006, three more deaths occurred near the fences at Ceuta and Melilla in northern Morocco, while the victims were trying to enter Spain. While exact causes of these deaths is unknown, there have been reports of prolonged gunfire and at least one of the dead is believed to have died as a result of gunshot wounds.

Amnesty International is also concerned about irregularities in the procedure used to expel people from Spain and Morocco. Many are expelled from the area between the two border fences, others are expelled from Spain to Morocco and some from Morocco to neighbouring North African countries. None of those interviewed by Amnesty International had been informed of their rights, including their right to seek asylum, none were able to speak with a lawyer when the expulsion order was issued and none of them knew the name of

their lawyer or had any contact information for them. Expulsions from Spain to Morocco were carried out without notifying the court and without a proper judicial process.

Amnesty International received reports from people who, while in the Spanish enclaves, had been intercepted and then expelled while they were on their way to the local station of the National Police to obtain documents to prove that they had reached Spanish territory and thus protect them from unlawful expulsion. Some reported that members of the Spanish Civil Guard had unlawfully expelled people who had already been to the police station and been given a date for completion of their asylum application.

Following the incidents at the border between Morocco and Ceuta on 29 September 2005, Moroccan security forces rounded up hundreds of people they suspected of being in an irregular situation in the country, and expelled them from Morocco. Most were migrants who had not sought asylum. However, dozens of asylum-seekers and at least one person recognized as a refugee by UNHCR were also arrested. Several of them reported that when they were arrested, they had produced a UNHCR document confirming that they had claimed asylum, but were told by the security forces that this did not grant them any special protection. Some officers reportedly confiscated the document, saying either that it would be returned to them later or that it was of no use to them as it did not offer protection. Other officers reportedly tore up the document in front of its holder. In many cases, the officers explained that they had been given instructions from the competent authorities to take such actions.

Some of those arrested were reportedly not told that they were going to be expelled. Others were told, but were given no details of how it would be carried out or where they were going. To Amnesty International's knowledge, no one was given the right to appeal against the decision before an administrative court, to be assisted by a translator, to examine the basis on which the decision was taken, to have access to a lawyer or to contact the consulate of their country of origin, despite the fact that these rights are guaranteed by Moroccan law.

Dozens were driven and left in desert areas on the border with Algeria. They were reportedly told by the security personnel who had transported them to walk across the border into Algeria and to head towards the nearest Algerian village. Some of them reported that they were given a bottle of water, a loaf of bread and several cans of sardines to help them survive. Others said that they were left without any food or water. Once abandoned, some said that they headed into Algeria before being stopped by Algerian military personnel, who told them to return to Morocco. Many said that they had become disoriented and fell ill as a result of the heat, sun and lack of food and water. One man told Amnesty International that he witnessed one of his travelling companions die of exhaustion as his group walked through the desert back into Morocco.<sup>2</sup>

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<sup>2</sup> For further information, see:

*Spain/Morocco: No impunity for killing*, AI Index: EUR 41/005/2006, 5 July 2006.

*Spain/Morocco: The authorities must be held accountable for the violation of migrants' rights*, AI Index: EUR 41/016/2005, 26 October 2005.

Almost one year on from the 29 September killings and subsequent arrests/deportations, neither the Spanish nor Moroccan authorities have clarified how the killings occurred or held any officials to account nor taken adequate measures to prevent a possible recurrence.

Amnesty International will be releasing a report in October on the human rights issues surrounding these events and the organisation's associated recommendations.

## **Sudanese refugees and asylum-seekers killed in Egypt**

On 29 September 2005, a small group of asylum-seekers, refugees and migrants of Sudanese origin who were demanding, among other things, improvements in their living conditions, protection from forcible return to Sudan and resettlement, started a protest in a square near the UNHCR offices in Cairo. By the end of December, the number of demonstrators exceeded 2,500 and the Egyptian authorities indicated that they intended to relocate the refugees to the outskirts of Cairo. On the evening of 29 December, police forces surrounded the area while last minute negotiations reportedly took place, involving leaders of the demonstration and officials from the Ministry of Interior. At around 3.30 am on 30 December, the police forces started using water cannons to disperse the demonstration and subsequently beat the demonstrators. During the ensuing clashes, 27 Sudanese protesters, including children, were killed by Egyptian police and dozens more were injured. A 14-year old boy died in hospital a month later.

Despite repeated local and international calls for a full, fair, and impartial investigation, an investigation initiated by the public prosecutor was closed in June without its results being made public and without anyone being charged. Amnesty International believes that the deaths and injuries caused result from serious violations of the human rights of the protesters, and most importantly of their right to life.

Amnesty International repeats its call to the Egyptian authorities to conduct a full, independent, and impartial investigation into the incidents and to ensure that all those officials responsible for committing, ordering or failing reasonably to prevent any human rights violations are brought to justice.<sup>3</sup>

## **2. Non-refoulement**

### **Laotians forcibly returned from Thailand still in incommunicado detention**

Thailand forcibly returned a group of 27 Laotians of Hmong ethnicity, of whom 22 were children, to Laos on 5 December 2005. They are still held incommunicado, reportedly in deplorable conditions, and have reportedly been ill-treated. Some of them may have been tortured.

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<sup>3</sup> For further information, see:

Egypt: Amnesty International calls for inquiry into killings and opposes threatened collective expulsions of Sudanese protesters, AI Index: MDE 12/002/2006, 5 January 2006.

The group had been living with their families in a makeshift refugee camp in the village of Huay Nam Khao, in the northern Thai province of Phetchabun, where approximately 6,000 ethnic Hmong from Laos are seeking asylum. They claim to have faced persecution in Laos because of their connection with former rebels involved in a conflict with the Lao military. Local Thai security officials have placed increasingly severe restrictions on the Hmong, forbidding them from moving outside the camp. The group who have been forcibly returned were arrested on 28 November 2005 on their way back from visiting a church outside the camp. Hundreds of others are detained.

On 6 April, a group of 26 unarmed ethnic Hmong people, mostly women and children, were massacred by Lao soldiers when they came out of their hiding places in the jungles to scavenge for food, some 20km northeast of the tourist town of Vang Vieng. This has only increased concern for the group of ethnic Hmong who have been forcibly returned.<sup>4</sup>

Amnesty International calls for intensive efforts to locate the group of 27, including 22 children, and to facilitate their return to their families. Amnesty International additionally urges the Lao authorities to accept assistance from the international community to address the wider issue of this conflict which is severely affecting the lives of thousands of ethnic Hmong Laotian refugees, including the provision of humanitarian assistance and independent monitors in conflict areas.

### **Uzbek refugees extradited by Kyrgyzstan now in incommunicado detention**

Amnesty International has documented many cases of people who have been tortured or sentenced to death following an unfair trial after they have been forcibly returned to Uzbekistan.<sup>5</sup>

The authorities in Kyrgyzstan extradited four refugees and one asylum-seeker to Uzbekistan on 9 August. Amnesty International is gravely concerned that the five men are now at imminent risk of serious human rights violations, including incommunicado detention, torture and other ill-treatment, a flagrantly unfair trial followed by either long prison sentences or even the death penalty.

The four refugees from Uzbekistan, Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov, had been detained in Kyrgyzstan since 2005. They were part of a group of more than 500 asylum-seekers who fled the city of Andizhan in eastern Uzbekistan on 13 May 2005 after security forces fired on thousands of mainly unarmed demonstrators. They sought asylum in neighbouring Kyrgyzstan. Most were

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<sup>4</sup> For further information, see:

Thailand: Fear of forcible return: At least 231 ethnic Hmong Laotian refugees, AI Index: ASA 39/007/2006, 7 June 2006

<sup>5</sup> For further information, see:

*Kyrgyzstan: Further information on fear of forcible return/fear of torture*, AI Index: EUR 58/003/2006, 10 August 2006

subsequently recognized as refugees by UNHCR and, eventually, by the Kyrgyzstani authorities. However, following an extradition request from Uzbekistan, the four were transferred from Besh Kana refugee camp to a prison in the Kyrgyzstani city of Osh in June 2005, before UNHCR could determine their refugee status. UNHCR eventually recognized all four men as refugees, a decision contested through the courts by Kyrgyzstan's Department of Migration Services. The Uzbekistani authorities claimed that one of the men had been convicted of narcotics offences and that the other three were being sought in connection with the violent death of the city prosecutor in Andizhan on 13 May 2005. The four have denied these charges. They lost their appeals against the authorities' decision not to recognize them as refugees in June 2006. Uzbekistani asylum-seeker Faez Tadzhikalilov, who fled from Andizhan after the other men, had been held with them in Osh since September 2005. His application for refugee status was still in the process of being reviewed by the UNHCR and Kyrgyzstani authorities when he was extradited.

In a statement on 14 June, UNHCR reiterated that the agency had found permanent resettlement places for the four refugees in different countries and urged the government of Kyrgyzstan to transfer them into the agency's care for immediate resettlement. At a press conference on 31 July, Kyrgyzstan's General Prosecutor reportedly questioned the validity of UNHCR's decision to recognize the four men as refugees. UNHCR was not given prior notice of the five men's extradition. They have reportedly been held incommunicado since their return to Uzbekistan.

Amnesty International calls on the Uzbekistani authorities to guarantee the safety of the five men and to give them access to lawyers of their choice and to members of their families.

Amnesty International urges the Kyrgyzstani authorities to request from the Uzbekistani authorities information about the five men's whereabouts and their wellbeing, and to make this information public. Amnesty International also calls on the authorities to end the forcible return of any person to a country where they are at risk of serious human rights abuses, in accordance with Kyrgyzstan's international obligations.

## **Ukraine deports asylum-seekers**

During the night of 14-15 February 2006, ten asylum-seekers from Uzbekistan, who had been seeking asylum in Ukraine, were forcibly returned to Uzbekistan by the Ukrainian authorities. Amnesty International is concerned that they are at risk of serious human rights violations in Uzbekistan, including incommunicado detention, torture or other ill-treatment, and a flagrantly unfair trial followed by either long prison sentences or even the death penalty.

The Uzbekistani authorities issued extradition warrants for 11 asylum-seekers in Ukraine on the grounds that they had allegedly participated in the Andizhan events in Uzbekistan on 13 May 2005. Ten of them were forcibly returned, but one was reportedly allowed to stay as he has relatives in Ukraine. The fate of the deported-asylum seekers remains unknown.



Amnesty International wrote to Ukrainian President Viktor Yushchenko on 2 March asking for assurances that Ukraine would not conduct any such *refoulement* in the future. The organization has not yet received a substantive reply.<sup>6</sup>

### **Forcible return to China leads to 15 years sentence**

Husein Dzhelil (aka Huseyin or Huseyincan Celil), who is originally from the Xinjiang Uighur Autonomous Region (XUAR), northwest China, fled China in the mid-1990s after having been detained in connection with his political activities there. He eventually went to Turkey where he sought asylum through UNHCR. He was recognised as a refugee, and resettled in Canada in 2001. He became a Canadian citizen in November 2005.

The Chinese authorities' crackdown on what it calls the "three evil forces" of "separatist, terrorist and religious extremists" in the XUAR has resulted in serious and widespread human rights violations directed against the region's Uighur community, prompting many of them to flee the country.

The Chinese authorities continue to accuse Uighur activists of terrorism without providing credible evidence for such charges. Those charged in connection with the "three evil forces" are most commonly tried behind closed doors; hence very little information is usually available about the actual proceedings of their trials. However, Amnesty International has obtained copies of the court verdicts issued following some such trials. These suggest that it is common for defendants not to have any legal representation at their trial and no access to legal aid during the entire period following their detention. In recent years, the organization has documented several cases of Uighurs being sentenced to death and executed in the XUAR for alleged "separatist" or "terrorist" activities.

Husein Dzhelil was detained on 27 March 2006 in Uzbekistan where he was visiting his relatives, and handed over to the Chinese authorities at the end of June. He has been held incommunicado ever since. According to his family, when Husein Dzhelil was transferred from Uzbekistan, the Uzbek authorities kept his Canadian passport. According to unconfirmed reports he has been sentenced to 15 years imprisonment in August. The details about his trial and exact charges against him remain unconfirmed but in an earlier statement the Chinese Ministry of Foreign Affairs implied that the charges against him related to "terrorism".<sup>7</sup>

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<sup>6</sup> For further information, see:

*Ukraine: Ten asylum-seekers forcibly returned to Uzbekistan*, AI Index: EUR 50/001/2006, 20 February 2006

<sup>7</sup> For further information, see:

Urgent Action updates: AI index ASA 17/052/2006, 13 September 2006; ASA 17/044/2006, 11 August 2006; ASA 17/042/2006, 8 August 2006; ASA 17/037/2006, 4 July 2006; Urgent Action update: EUR 62/014/2006, 19 June 2006; and Urgent Action EUR 62/008/2006, 24 April 2006.

Amnesty International calls on the Chinese authorities to guarantee that Husein Dzhelil will be treated humanely in detention, and will not be tortured or ill-treated, or sentenced to death. Amnesty International also urges that, as a Canadian citizen, Husein Dzhelil is given access to Canadian consular officials in China while he remains in detention.

Amnesty International reminds the Uzbekistani authorities of their obligation under international law not to forcibly return anyone to a situation where they would be at risk of torture or other serious human rights abuses.

### **Syria deports recognized refugees to Iran**

On 16 May, two Iranian men of Ahwazi Arab ethnicity were reportedly forcibly returned to Iran from Syria; they were part of a group of eight Ahwazi Iranians arrested by Political Security officers in the Syrian capital and held incommunicado. The two men returned to Iran include a refugee recognized by UNHCR who was awaiting resettlement and another who had been recognized as a refugee in the past and had subsequently acquired Dutch citizenship. One of those returned to Iran may be held in the Karoon Prison in Ahvaz city; the other is held incommunicado at an unknown location in Iran, and both may be at risk of torture, ill-treatment, and possibly execution.

Three of the other six men were released around mid-May and there are reports that the three remaining men were also returned to Iran, but these reports are unconfirmed, and they may remain in detention in Syria. On 15 September, UNHCR expressed its concern, stating they “had been recognized as refugees by UNHCR under the 1951 Refugee Convention, and have been accepted for resettlement in Western European countries.”<sup>8</sup>

Amnesty International has documented numerous cases of torture, ill-treatment, and unfair trials in Iran. Additionally, death sentences are often passed without guarantees of due process. Two Iranian Arab men were executed in public on 2 March 2006 after they were convicted of involvement in bombings in October 2005. Their executions followed unfair trials before a Revolutionary Court during which they are believed to have been denied access to lawyers, and their confessions, along with those of seven other men, were broadcast on television. At least 13 other Iranian Arabs are also reportedly under sentence of death, accused of various crimes including involvement in the bombings, and endangering state security.<sup>9</sup>

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*People's Republic of China: Uighurs fleeing persecution as China wages its "war on terror",* ASA 17/021/2004, July 2004.

<sup>8</sup> *UNHCR deeply concerned about Ahwazi refugees in Syria*, UNHCR Briefing Notes, 15 September 2006.

<sup>9</sup> For further information, see:

*Iran/Syria: Further information on Forcible return/Fear of torture and ill-treatment*, AI Index: MDE 13/107/2006, 25 September 2006.

Amnesty International urges the Syrian authorities to clarify the fate of the three men who may still be in Syria, and if they are still in Syria, to give them access to UNHCR. Amnesty International further calls on the Syrian authorities not to deport any refugee or asylum-seekers from its territory, in line with its obligations under international law.

Amnesty International calls on the Iranian authorities to clarify the whereabouts of the two returned men and details of charges against them, if any. Amnesty International further calls on the Iranian authorities to ensure the safety of the two men, and to allow them access to their families, lawyers and medical treatment if necessary.

### **3. Internally Displaced Persons (IDPs)**

#### **The people of Darfur are crying out for security**

Hundreds of thousands have been forcibly displaced and thousands of civilians have been killed, tortured and raped since 2003. Even as the government of Sudan resists the deployment of international peacekeepers in Darfur, it has launched a new military offensive in the region. Civilians are being killed in aerial bombardments and ground attacks by government forces and Janjawid militia.

The government of Sudan has recently launched a major military offensive, the scale of which Darfur has not witnessed for over a year. The Darfur Peace Agreement of May 2006 was supposed to herald a new era of peace. Instead it has opened up a new conflict, pitting the government and its allies against the non-signatories. Signed by only the government of Sudan, one faction of the opposition Sudan Liberation Army (SLA) led by Minni Minawi, and a few individual commanders from other factions, it was not signed by key opposition groups and factions.

Civilians throughout Darfur now face the threat of new attacks. Those most at risk are mainly in North Darfur, but reports of government and Janjawid attacks are also reported in West and South Darfur. In the areas where fighting is taking place, familiar patterns of the Darfur conflict are being seen again: civilians being killed or injured in targeted attacks, and the fear of attack triggering new displacements.

In violation of the principles of international humanitarian law, attacks by the government make little or no distinction between combatants and civilians. Civilians are also often specifically targeted on the basis of their association with the non-signatory groups. The armed opposition groups sometimes fail to distinguish themselves from the civilian population. Attacks such as the aerial bombardment of civilians generally demonstrate disproportionate and indiscriminate use of force, and often intentionally target civilians. The increased insecurity has resulted in the total withdrawal of humanitarian aid in some areas. If the fighting spreads, the entire Darfur aid operation is under threat.

In large parts of West Darfur, the Janjawid have almost complete control and are gradually occupying the land which was depopulated by the scorched earth campaign in 2003 and 2004. Hundreds of thousands of people – most of the original population – now live in camps for IDPs or in refugee camps across the border in Chad. The Janjawid presence threatens attack on any IDP movement outside of the camps, making venturing outside extremely difficult and any return of the displaced to their homes impossible. The displaced are effectively imprisoned inside the camps. Even within them, the Janjawid commit killings, rapes, beatings and theft. Rape is a near certainty for women caught outside the camps, and women are sometimes abducted and enslaved in Janjawid households. Men venturing outside the camps are often beaten, tortured or killed.

In eastern Chad, directly across the border from West Darfur, attacks reminiscent of the first wave of Darfur's scorched earth campaign continue unopposed. Amnesty International has documented cross-border attacks since late 2005, in which the Janjawid have killed and driven from their homes thousands of civilians, targeted because of their ethnicity, and looted the wealth of whole communities.<sup>10</sup>

What Darfuris want above all else is security: a halt to the fighting, the disarmament of the Janjawid, and, if these conditions are met, to return in safety to their homes. The international community has promised the people of Darfur much but now is the time for action. Effective peacekeeping must be brought to Darfur.

Amnesty International will be publishing a report on attacks on civilians and the security situation in Darfur in October 2006.

### **Increased security and protection needed for Sri Lanka's IDPs**

Over two decades of internal armed conflict in Sri Lanka have resulted in widespread displacement of the civilian population, a problem that was compounded by the December 2004 tsunami disaster. Over half a million people are estimated to remain displaced, more than 312,000 by the conflict and 325,000 by the tsunami.

The state's failure to provide adequate security and to ensure that attacks against civilians are prosecuted has resulted in widespread fear and panic. Almost every major attack in recent months has had a devastating ripple effect as people flee from their homes and villages in search of sanctuary. Escalating fighting since April 2006 resulted in the internal displacement of more than 200,000 people, many of whom have suffered multiple cycles of displacement. Thousands more have fled Sri Lanka altogether; this year, more than 8,700 people have become refugees in India's Tamil Nadu state.<sup>11</sup>

Many of those displaced – including those living in organized camps – continue to be extremely vulnerable to violence and harassment by the Tamil Tigers, other armed groups, and even members of the Sri Lankan security forces. On 17 June, one woman was killed and

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<sup>10</sup> Amnesty International, *Chad/Sudan: Sowing the seeds of Darfur – Ethnic targeting in Chad by Janjawid militias from Sudan*, AI Index: AFR 20/006/2006, June 2006.

<sup>11</sup> August statistics compiled by UNHCR.

44 others injured when grenades were lobbed into a church in the northern village of Pesalai, where thousands of people had sought refuge from fighting between the Tamil Tigers and government forces. Consistent eyewitness accounts have identified members of the Sri Lankan security forces as responsible for the attack on the church.

Amnesty International is demanding increased security and protection for all IDPs, especially in remote areas. Humanitarian aid agencies must be allowed to supply food, medical supplies and other essential goods and services to civilians at risk, including IDPs, who are often particularly vulnerable. Amnesty International is concerned that new regulations regarding work permits for foreign staff of NGOs and travel restrictions imposed by the Ministry of Defence have impeded the delivery of essential supplies and services.<sup>12</sup>

### **Colombia's IDPs struggle to reaffirm their rights as civilians**

The total number of IDPs in Colombia is now at least 3 million; more than 300,000 persons were newly displaced in 2005. These figures are not acknowledged by the government, which continues to underplay the extent of the IDP problem in Colombia.

Displaced persons moving to urban areas continue to be stigmatized and face serious human rights abuses. One example is the situation faced by inhabitants of Ciudad Bolívar and Altos de Cazucá, both on the outskirts of the capital Bogotá. Also, Amnesty International has become increasingly concerned about the high rates of intra-urban displacement, especially in cities such as Bogotá, Medellín and Cali, and has received numerous reports of intra-urban displacement in Ciudad Bolívar and Altos de Cazucá. This type of displacement is rarely acknowledged by the authorities. Displacement within indigenous communities is also of concern; this displacement is often not registered because displaced persons seek shelter within their neighbouring communities.

Amnesty International believes that the paramilitary demobilization process, and the legal framework which supports it, threaten to consolidate the impunity of human rights abusers and risk ensuring that assets stolen through war crimes or crimes against humanity are not returned. Millions of hectares of land have been appropriated by army-backed paramilitaries since the mid-1980s. There is serious concern that the status of these stolen lands could now be "legalized". AI is concerned that the international community may seek to provide direct funding for projects facilitating this process.

Over recent years, several civilian communities have sought to gain increased security and resist forced displacement by reaffirming their right as civilians not to be drawn into the conflict. The reaction of the security forces and their paramilitary allies has been to treat these communities as subversive/ guerrilla collaborators. To reaffirm their right as civilians some communities have returned to lands from which they were forcibly displaced and set up "Peace Communities" or "Humanitarian Zones". AI continues to document threats and human rights abuses against such communities, including the Peace Community of San

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<sup>12</sup> For further information, see: Sri Lanka: Waiting to go home - the plight of the internally displaced, AI Index: ASA 37/004/2006, June 2006.

José de Apartadó and the communities of Curvaradó, Jiguamiandó and Cacarica. These abuses have been committed mainly by paramilitaries and the security forces, but also by guerrilla groups. Moreover, human rights defenders working with displaced populations or communities under threat of displacement often face paramilitary death threats and other forms of violence, which further undermined these communities' ability to defend their human rights<sup>13</sup>.

Amnesty International calls on the Colombian authorities to ensure that measures are adopted to increase the effective protection of civilians, including IDPs, in line with UN human rights recommendations and the Guiding Principles on Internal Displacement. Amnesty International further calls on the Colombian authorities to publicly acknowledge the right of civilians not to be drawn into the conflict, and the legitimacy of the position adopted by communities, such as those of San José de Apartadó, Cacarica, Jiguamiandó and Curvaradó, to actively assert these rights.

## 4. Statelessness

### Statelessness needlessly perpetrated in Estonia

In November 1991, following independence from the USSR, Estonia decided that only those who were citizens of Estonia prior to 1940, and their descendants, would automatically be recognized as Estonian citizens. This meant that a large part of those living in Estonia in 1991 did not automatically qualify for citizenship, as they or their families could not claim to have been citizens before 1940. By 1992, as many as 32 per cent of Estonian residents were considered to have 'undetermined' citizenship status,<sup>14</sup> which in effect meant that they were stateless. By 2005, 82 per cent of Estonian residents were Estonian citizens, while 10 per cent were stateless and 8 per cent were citizens of other states.<sup>15</sup> This means that there are today approximately 130,000 stateless persons in Estonia.

The requirements to become a citizen are outlined in the Law on Citizenship (1995). According to Article 6 of the law, two exams must be passed in order to become a citizen: a written and oral Estonian language exam and an exam on knowledge of the Estonian Constitution and the Law on Citizenship. One of the main obstacles for stateless persons to acquire Estonian citizenship is their insufficient Estonian language skills.<sup>16</sup> Most have to do

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<sup>13</sup> Colombia: Further information on fear for safety: Members of the Peace Community of San José de Apartadó, Antioquia department, AI Index: AMR 23/011/2006, 16 March 2006.

Colombia: Further information on fear for safety: Afro-descendent inhabitants in the Cacarica River Basin, AI Index: AMR 23/004/2006, 06 February 2006.

<sup>14</sup> Estonian Citizenship and Migration Board, March 2003, Tallinn: Citizenship and Migration Board, 2003, p. 8.

<sup>15</sup> Estonian Citizenship and Migration Board, Yearbook 2006, Tallinn.

<sup>16</sup> This observation is shared by, amongst others, Klara Hallik (ed.), *Integration of Estonian Society: Monitoring 2002*, Tallinn: Institute of International and Social Studies, 2002

an Estonian language course in order to gain sufficient language skills. These courses are costly, and not all stateless persons can afford to pay them. The state reimburses most or all of the costs for the language course for those who pass the exams, but this does not resolve the problem of finding the funding to take the course in the first place, or a solution for those who fail their language exams (approximately 25-35 per cent of those who sit the exams fail them).

Stateless persons, many of whom were born and have lived their entire, or at least the majority of, their lives in Estonia, are denied access to employment in the public sector. This means that they are at high risk of unemployment, and thus of social exclusion. Their lack of citizenship also means that they have difficulties traveling abroad and are vulnerable to human trafficking and human smuggling. Amnesty International is concerned by the fact that 10 per cent of Estonia's residents are still stateless 15 years after Estonia gained independence. The organization is also concerned that seemingly inadequate measures have been taken to help stateless persons become citizens. Free language teaching in order to aid stateless persons in passing the language exam required for citizenship could be a step towards facilitating naturalization. Amnesty International is further worried by the effects of statelessness in Estonia in terms of social exclusion and vulnerability to further human rights abuses including human smuggling and trafficking and recommends to the Estonian authorities to take steps to facilitate naturalization and improve access to employment and socio-economic integration for stateless persons in Estonia.

Amnesty International calls on the Estonian authorities to take the adverse effects of current public sector citizenship requirements on employment for non-citizens into account in policy-making processes to reduce unemployment

Amnesty International will in December 2006 publish a report on minority issues in Estonia which will address barriers to full and effective enjoyment of economic, social and cultural rights for minorities. This report will focus on stateless persons as well as Estonian citizens who belong to minority communities

### **Slovenia's 'erased'**

On 26 February 1992, at least 18,305 individuals were removed from the Slovenian registry of permanent residents and their records were transferred to the registry of foreigners.<sup>17</sup> Those affected were not informed of this measure and its consequences. The "erased" were mainly people from other former Yugoslav republics, who had been living in Slovenia and had not applied for or had been refused Slovenian citizenship in 1991 and 1992, after Slovenia became independent. As a result of the "erasure", they became *de facto* foreigners or stateless persons illegally residing in Slovenia. In some cases the "erasure" was subsequently followed

<sup>17</sup> The Socialist Federal Republic of Yugoslavia (SFRY) was a federation composed of six republics and, before its dissolution, SFRY citizens had also a second, republican citizenship. SFRY citizens of other republics living in Slovenia enjoyed the same rights as citizens having Slovenian republican citizenship. After Slovenia became independent, citizens of other republics having permanent residence in Slovenia could apply for Slovenian citizenship by the deadline of 26 December 1991.

by the physical destruction of the identity and other documents of the individuals concerned. Some of the "erased" were served forcible removal orders and had to leave the country.

Of a total of at least 18,305 people affected by the "erasure", to date approximately 6,000 remain without Slovenian citizenship or a permanent residence permit. Many of them live "illegally" as foreigners or stateless persons in Slovenia; others were forced to leave the country as a result of the "erasure". The remaining 12,000, who after their removal from the registry of permanent residents managed to obtain Slovenian citizenship or permanent residency, are often still suffering from the ongoing consequences of their past unregulated status and have had no access to full reparation, including compensation.

Amnesty International is concerned that many of the "erased" lost their job and/or could no longer be legally employed as a consequence of their status as foreigners or stateless persons without a permanent residency permit. In cases where the "erasure" resulted in the loss of employment, this often meant the loss of many years of pension contributions. As a result, many "erased" lost their entitlement to a pension, or saw their (expected) pension significantly reduced. As foreigners with no permanent residence permit in Slovenia, the "erased" have had no, or limited, access to comprehensive healthcare after 1992, in some cases with serious consequences for their health.

Amnesty International calls on the Slovenian authorities to ensure that *ad hoc* legislative and other measures are adopted, granting full reparation, including restitution, satisfaction, compensation, rehabilitation and guarantees of non-repetition, to all individuals affected by the "erasure", and to ensure that they are able to fully enjoy all of their rights.<sup>18</sup>

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<sup>18</sup> For further information, see:

Slovenia: The 'erased' - Briefing to the UN Committee on Economic, Social and Cultural Rights, AI Index EUR 68/002/2005, 28/11/2005.