

amnesty international

Summit of the Americas

Our Call for Human Rights: A message from Amnesty International members in advance of the Fourth Summit of the Americas

As leaders of nations throughout the Americas prepare to gather in Argentina for the Fourth Summit of the Americas, the hundreds of thousands of women, men and young people from the northern to the southern tip of this hemisphere, who are members of Amnesty International, insist that their leaders ensure that improving human rights protection for all peoples in the Americas is their absolute priority.¹

Leaders will have a range of important, pressing issues on their agenda, all of which require careful regard for the fundamental human rights obligations enshrined in the numerous Inter-American treaties and declarations that should stand at the heart of the Summit vision of hemispheric cooperation and integration. Sadly, despite their crucial importance for the people of the Americas, human rights have not to date been given a central role in the Summit process.

¹ Amnesty International is a movement, made up of over 1.8 million members in approximately one hundred and fifty countries throughout the world, working for observance of the fundamental rights enshrined in the Universal Declaration of Human Rights and other related instruments. It is independent of all governments or groups of governments, political ideologies, economic aims and religious beliefs. Its sole interest is to ensure that human rights are protected and effectively observed. This *Call for Human Rights* is the collective effort of Amnesty members in Argentina, Bahamas, Barbados, Bermuda, Bolivia, Canada, Chile, Ecuador, Grenada, Jamaica, Mexico, Peru, the United States, and Venezuela. It reflects the concerns of Amnesty International members throughout the hemisphere.

This Summit's theme of "creating jobs to fight poverty and strengthen democratic governance" itself will require strong human rights commitments from governments if their intentions are genuine, as each of the issues involved – employment, poverty and democratic governance – will only be adequately addressed if approached with the understanding that all human rights are interdependent and indivisible. With this theme in mind, states have specific obligations to respect, to protect and to fulfill the right to work and to just, equitable, and satisfactory conditions of work; the rights to health, education and housing; and rights to free expression, opinion, association and assembly. The realization of all of these rights in turn relies on the respect for a range of other essential human rights if there is to be sustainable success and improvement in addressing this Summit's theme.

The need is real and the time is now. Human rights violations continue to be the daily reality for thousands upon thousands of people in the Americas. Women face staggering levels of violence and discrimination. Torture, arbitrary detention and other serious abuses in the so-called "war on terror" continue in many countries. The Indigenous peoples of the hemisphere struggle to have their fundamental rights recognized and protected. Marginalized and dispossessed communities in many countries live in extreme poverty with their fundamental rights to essential health care, to a decent standard of living, to education and to adequate housing disregarded. Armed conflict, fuelled by inequities and made possible by an unregulated arms trade, imperils civilian populations. And human rights defenders face repression and threats to their lives, simply because they dare to stand up for the basic human rights pledges which governments in the Americas have made.

Amnesty International members in the Americas ask their leaders to make this a Summit which marks the beginning of a new era for human rights in this hemisphere. Much needs to be done, including real progress in the following areas.

I. STRENGTHENING THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

In the face of ongoing and serious human rights abuses in the Americas it is indeed tragic that our governments have to date failed to take steps to significantly strengthen the regional human rights system – most particularly the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights. Governments must make firm, concrete and timebound commitments to substantially increasing the resources available to those institutions, reflecting the increased number of cases submitted to these bodies and additional mandates added to their workload.

States must also improve their own record of respect for Inter-American human rights obligations. That should start by ratifying the full range of important human rights treaties. In addition to the overarching American Convention on Human Rights there are vital treaties and protocols dealing with economic, social and cultural rights, the death penalty, violence against women, torture, "disappearances" and disabilities. Two countries – Canada and the United States – have yet to ratify any of these treaties. Nine have failed to ratify the critical

American Convention on Human Rights.² At a time when Amnesty International members in the Americas and worldwide are actively campaigning to end violence against women we are particularly distressed that three governments have not yet ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the only human rights treaty in the world that deals specifically with violence against women.³

II. HUMAN RIGHTS AT THE HEART OF TRADE AND INVESTMENT

The Summit process has long been associated in the minds of the public with hemispheric trade liberalization and the development of a possible Free Trade Area of the Americas (FTAA). While negotiation of the FTAA has run into obstacles it is apparent that our governments continue to move towards liberalized trade and investment, through bilateral agreements or sub-regional arrangements. Trade among Canada, Mexico and the United States is governed by the North American Free Trade Agreement; Argentina, Brazil, Paraguay and Uruguay have joined together in MERCOSUR; and 15 Caribbean nations have forged a common market through CARICOM. And agreements are growing further afield. The United States has been negotiating trade deals with Central American countries and with an Andean bloc of states. Canada has concluded bilateral deals with Chile and Costa Rica. In the background, large infrastructure and economic development projects such as Plan Puebla Panama and the Andean Regional Initiative have far-reaching consequences for locally-based livelihoods and resources.

While these agreements have created new opportunities for some, they have also at times coincided with growing inequality and deteriorating social conditions undermining human rights of the poorest sectors of the population. Efforts to advance new trade deals have also been associated with use of violence and repression against those who oppose them.

Amnesty International members throughout the Americas have previously reminded their governments of their obligation to ensure that the development of new trade and investment agreements does not undermine the enjoyment of human rights. We have been concerned that governments have not adequately ensured that proposed trade agreements are negotiated in a manner that effectively protects human rights, particularly the rights of the most vulnerable. At this Summit we call upon our leaders to commit to undertaking human rights impact assessments prior to concluding any new trade and investment agreements, as well as after the adoption of any such agreements. These assessments should take into account the full range of governments' human rights obligations, including those under core United Nations, Organization of American States and International Labour Organization treaties, as well as those established by international humanitarian law and the International Criminal Court Statute. We also call on our leaders to adequately consult with those likely to be affected by new trade rules, including women, Indigenous peoples and other vulnerable populations.

² Antigua and Barbuda, Bahamas, Belize, Canada, Guyana, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and the United States.

³ Canada, Jamaica and the United States.

Even if the manifestation of many trade related rules is often more evident in developing than industrialized countries, we remind our leaders that as members of the United Nations they have pledged to take both joint and separate action to achieve universal respect for, and observance of, human rights for all without distinction. Under key international treaties, governments have obligations of international assistance and cooperation, which extend to ensuring that they respect, protect and fulfill human rights when acting outside their borders, including in negotiating international trade agreements.

Governments bear the primary obligation for ensuring that investment in the Americas is carried out with full regard for international human rights obligations. However, the responsibilities of companies cannot be ignored. Companies often operate in ways that contribute to serious human rights abuses. Businesses also have a responsibility to respect and uphold human rights. Summit leaders should support the mandate of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises in establishing universally recognised UN human rights standards applicable to business, based in substantial part on the *UN Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights*.⁴

III. PROTECTING THE RIGHTS OF WOMEN

Women constitute at least half of the population of the Americas, but protection of their basic human rights is still far from a reality. Instead, alarming levels of violence and discrimination against women are among the most pressing human rights challenges faced in the Americas and globally. Violence and discrimination in turn are impediments to women and girls being able to enjoy the full range of their human rights.

Countless women and girls face violence on a daily basis in every corner of the Americas and cannot count on their governments to provide them with the basic level of protection and security that is their fundamental right. Amnesty International has issued a number of recent reports on violence against women in a number of countries in the Americas, including:

- violence against Indigenous women in Canada and Mexico,
- disturbing longstanding patterns of murdered and missing women in Mexico and Guatemala, and
- violence against women in the context of Colombia's continuing human rights crisis.

It is time, well past time, for leaders in the Americas to demonstrate a genuine commitment to upholding the fundamental rights of women, by adopting effective measures that will, at long last, bring this violence and discrimination to an end. Women's rights will only be protected

⁴ Resolution 2005/69, 20 April 2005. On 13 August, 2003, the U.N. Sub-Commission on the Promotion and Protection of Human Rights approved the UN Human Rights Norms for Business, resolution 2003/16, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003).

through strong action resolving a number of the other concerns that are highlighted in this document, including migration, fighting poverty, ratifying applicable treaties, strengthening hemispheric human rights institutions, and ensuring that trade and investment negotiations are guided by human rights impact assessments that include consideration of the particular impacts on women.

Last year governments established a new intergovernmental body that will oversee and monitor compliance with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.⁵ This body does not have the necessary independence and impartiality from its political body to ensure an effective and independent evaluation of State compliance with the Convention and risks being compromised by political interests between States. The Summit leaders should declare their support for the necessary modifications of the Statute in order to guarantee its independence and impartiality, through a transparent process.⁶

Governments can also help strengthen human rights protection for women in the Americas by ensuring that they have ratified two crucial United Nations human rights instruments: the Convention on the Elimination of Discrimination against Women, and its important Optional Protocol that provides women the opportunity to make international-level complaints of violations of their Convention rights.⁷ Women of the Americas await evidence that their governments are prepared to take real steps in keeping them safe from violence and monitoring compliance with the international standards that should ensure the equal protection and enjoyment of their basic human rights.

IV. SECURITY THROUGH HUMAN RIGHTS

Amnesty International continues to have grave concerns that governments in the Americas and worldwide have adopted laws, policies and practices in the name of enhancing security, which have directly caused or facilitated a range of serious human rights violations, including torture, arbitrary detention and discrimination. We have raised concerns about the detention of hundreds of individuals without charge or trial at Guantánamo Bay. We have highlighted ways in which Colombia's "democratic security" policy has led to serious human rights abuses. We have raised concerns with many other governments in the region as well. In all instances we have stressed that security that is truly global and truly sustainable will only be

⁵ Statute of the Mechanism to Follow Up on Implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, "Convention of Belém do Pará" (MESECVI) and its Draft Rules of Procedure.

⁶ Contributions to the MESECVI must be without prejudice to the financial contributions made by States to the already existing protection mechanisms of the Inter-American human rights system.

⁷ The United States is the only state in the Americas yet to ratify the Convention on the Elimination of Discrimination against Women. Fourteen states in the hemisphere have ratified the Optional Protocol: Belize, Bolivia, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela.

achieved through scrupulous regard for the full range of internationally protected human rights.

This Summit offers a valuable opportunity explicitly and unequivocally to commit to an Inter-American security agenda that is wholly grounded in respect for international human rights obligations, including protection against torture, freedom from discrimination, and the right not to be arbitrarily arrested and detained. Leaders must speak out and condemn all instances where human rights violations such as torture are allowed to take place or are even excused, in the name of security.

We urge leaders to go further and demonstrate a willingness to strengthen human rights protection in ways that will improve the real security of women, men and children in the Americas. One critical means of doing so is to tackle the impunity that so often stands behind human rights abuses. The world has taken a significant step forward in establishing the International Criminal Court. However, thirteen governments⁸ in the Americas have not yet ratified the ICC's Rome Statute and thus have not recognized the Court's jurisdiction to ensure that individuals who commit genocide, war crimes and crimes against humanity are brought to justice. They should do so without further delay.

The largely unregulated trade in small arms and light weapons has contributed significantly to much of this hemisphere's insecurity and grave human rights abuses and has exacerbated the poverty and suffering of countless people throughout the Americas. From the gangs of Río de Janeiro and Los Angeles to the armed conflict in Colombia, the arms trade in the Americas is out of control, with devastating and incalculable human cost. But the trade continues. The United States is the source of close to one-half of global arms exports, some of which have ended up in countries such as Colombia where they have without doubt been used in the commission of human rights violations. Our leaders must curtail this global trade in death. Amnesty International has pressed the world community to take up a proposal for a new international treaty that would regulate the global trade in small arms and light weapons. We call on each and every government in the Americas to announce support for this effort at the very earliest date possible.⁹

V. MIGRATION AND DISPLACEMENT

Throughout the Americas, millions of people are on the move – for many different reasons, but almost always in circumstances that give rise to serious human rights concerns. Many flee their homes because of war and serious human rights violations; others are uprooted by grinding poverty and violations of economic, social and cultural rights. They may remain displaced within their own country, or escape to seek refuge, jobs or brighter economic opportunities in other countries, neighbouring or afar. Sadly, displacement often brings only

⁸ Bahamas, Chile, El Salvador, Grenada, Guatemala, Haiti, Jamaica, Mexico, Nicaragua, St. Kitts and Nevis, St. Lucia, Suriname and the United States have not yet ratified the Rome Statute.

⁹ Belize, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama have already made this public declaration.

further human rights abuses, and continuing insecurity. Forced to cross borders illegally and dangerously, and to live in other countries without lawful immigration status, migrants in the Americas are particularly vulnerable to exploitation and violence.

Perhaps the most vulnerable of all are the large numbers of people, primarily women and children, who are trafficked to work in the sex trade, domestic service, agriculture and other industries, within their own countries and across borders. Their plight is often hidden and largely unknown; their lives marked by isolation, fear and abuse.

Whether, internally displaced within Colombia, forced to flee persecution in Haiti, or working without status in the United States – migration and displacement are among the most pressing human rights challenges in the Americas. The tragic irony is that governments are determined to find ways to make it easier for goods, services and investment to flow across the same borders that are a source of division, inequity and even danger for people to traverse.

Borders in the Americas must be a frontier for the protection of human rights, not a testament to the abuses suffered by so many vulnerable individuals. We call on our leaders to commit to a vision of the Americas which will uphold and protect the rights of all migrants and displaced persons. Strong legal norms for the protection of refugees do exist regionally within the Americas, including the broad definition of refugee adopted in the 1984 Cartagena Declaration and the recognition in article 22(7) of the American Convention on Human Rights of the right to seek and *be granted* asylum. But actions do not always live up to those fine words. Summit leaders should make it clear that nationally, bilaterally and multilaterally, refugee laws and practices will always fully conform to international standards.

The protection of migrant workers should also be affirmed. At the level of the United Nations an important new treaty has come into force dealing with the basic rights of migrant workers and their families.¹⁰ Only ten nations in the Americas have bound themselves to this important legal framework.¹¹ We call on all others to follow suit, particularly those countries that are host to migrant workers.

VI. PROTECTING THE RIGHTS OF INDIGENOUS PEOPLES

Indigenous peoples remain among the most vulnerable sectors of society throughout the Americas. The determination of Indigenous peoples to maintain their distinct ways of living, and the centrality of these customs and practices to the fulfillment of their basic rights to food, healthcare, and work, is in constant tension with discriminatory attitudes and policies that disregard the interests of Indigenous peoples and exclude them from meaningful control of their own lives and futures. The result is serious and widespread violations of the fundamental human rights of Indigenous peoples, documented by Amnesty International.¹²

¹⁰ *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, in force July 1, 2003.

¹¹ Belize, Bolivia, Chile, Colombia, Ecuador, Guatemala, Honduras, Mexico, Peru and Uruguay.

¹² Including recent reports dealing with Brazil, Canada and Mexico.

Within the Organization of American States, there is an effort underway to strengthen protection of the basic rights of Indigenous peoples through the elaboration of an American Declaration on the Rights of Indigenous Peoples of the Americas, still in draft form. The draft notes that “Indigenous peoples are foundational societies that form an integral part of the Americas.” Acknowledging that essential identity, Summit leaders should make a strong commitment to action that will address this centuries-old human rights tragedy.

We call on our leaders to affirm their unconditional support for the adoption of an American Declaration on the Rights of Indigenous Peoples that provides strong protection to the hemisphere’s many Indigenous peoples and which does not in any way detract from emerging international standards for the protection of the human rights of Indigenous peoples. The Declaration must include effective protection for the lands, territories and resources critical to the fulfillment of Indigenous peoples’ human rights.

Additionally, leaders should demonstrate global leadership in ending the longstanding neglect of the human rights of Indigenous peoples, in the Americas and around the world by announcing consultations with Indigenous peoples with an eye to ratification of the important International Labour Organization Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169). Thirteen nations¹³ in the Americas have done so; it is time for others to follow.

VII. FIGHTING POVERTY: ESSENTIAL ECONOMIC, SOCIAL AND CULTURAL RIGHTS

At the last Summit of the Americas, leaders committed to “further efforts to reach international development goals, especially the reduction by 50% by the year 2015 of the proportion of people living in extreme poverty.”¹⁴ All world leaders, at the recent 2005 World Summit, reaffirmed their commitment to the “timely and full realization” of those goals, which have come to be known as the Millennium Development Goals.

The challenges faced in our region in reaching those goals and making demonstrable progress in protecting the basic economic, social and cultural rights of all peoples of the Americas, are immense. Deep poverty is still a debilitating reality for far too many people throughout the hemisphere and there are widespread concerns that current approaches to trade liberalization may exacerbate the situation. Nine nations in the Americas rank in the bottom half of the United Nations Development Program’s Human Development Index.¹⁵ Endemic and extreme

¹³ Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominica, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru and Venezuela.

¹⁴ Declaration of Quebec City, April 2001.

¹⁵ Belize (91), Dominican Republic (95), Jamaica (98), El Salvador (104), Nicaragua (112), Bolivia (113), Honduras (116), Guatemala (117) and Haiti (153), out of 177 nations.

levels of poverty in Haiti almost certainly fuel the insecurity and violence that have led to mass violations of the full range of human rights in that country for many decades.

There is still far to go in reaching the promises that world leaders made as the millennium began, promises of real progress in addressing extreme hunger, access to education, gender equality, lack of basic health care, and other major obstacles that stand in the way of truly equitable and rights-based development. Summit leaders should make it clear that this is a matter of utmost priority in the Americas.

This is not only a matter of political commitments, but a human rights obligation guaranteed in numerous international standards. The leaders of the Americas should demonstrate their commitment to human rights by taking concrete steps towards the full realization of economic, social and cultural rights for all. They should also desist from policies which actively impede the realization of these human rights, or which allow others to violate those rights with impunity.

They should also demonstrate their willingness to be judged and held responsible for their record of living up to their economic, social and cultural rights obligations by ratifying the Protocol of San Salvador, which enumerates those rights in detail and offers individuals a means of turning to the Inter-American human rights system when some of those rights are violated.¹⁶

VIII. HUMAN RIGHTS DEFENDERS

At the front-lines of armed conflict, working to improve the plight of marginalized communities, demanding that violence against women come to an end, this hemisphere's human rights defenders play a crucial role in protecting human rights in the Americas. However, human rights defenders in many countries in the Americas face constant harassment, violence and threats of death on account of their efforts to support the victims of human rights violations and to expose abuses. Far too often the danger stems from governments themselves. In other cases, governments fail to take adequate steps to provide adequate protection so that human rights defenders can carry out their work in safety and without fear.

¹⁶ Antigua and Barbuda, Bahamas, Barbados, Belize, Bolivia, Canada, Chile, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Jamaica, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and the United States have not yet ratified the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), which was adopted by the Organization of American States in 1988 and entered into force in 1999.

There have been many fine words from governments in the Americas, promising to protect human rights defenders from harm. At the last Summit of the Americas, governments committed to “to promote and give effect to” the UN’s Declaration on Human Rights Defenders.¹⁷ Every year the OAS General Assembly adopts a resolution on human rights defenders, acknowledging the importance of their work and promising to provide them with safety and security. But defending human rights continues, in some countries, to be fraught with danger and great risk. Summit leaders should recognize the legitimacy of efforts to defend human rights and ensure that human rights defenders receive whatever protection they require so as to be able to continue their human rights work. All governments must promise to develop national plans for implementing the principles in the UN Declaration on Human Rights Defenders and undertake to take immediate and concrete action when defenders, in any country, run into danger.

¹⁷ United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted December 10, 1998. Relevant OAS resolutions include AG/RES. 2036 (XXXIV-O/04) 8 June, 2004 and AG/RES. 2067 (XXXV-O/05), 7 June, 2005: *Human Rights Defenders: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas*.

OUR CALL FOR HUMAN RIGHTS

When heads of government in the Americas gather in Argentina for the Fourth Summit of the Americas, they must make decisions that are firmly grounded in respect for fundamental human rights. Amnesty International members in the Americas call on their leaders to:

- Make firm, concrete, timebound commitments to increase resources for the Inter-American human rights institutions.
- Ratify the full range of human rights treaties within the Organization of American States, including the American Convention on Human Rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the San Salvador Protocol on Economic, Social and Cultural Rights.
- Demonstrate their commitment to protecting women's human rights by ratifying the United Nations Convention on the Elimination of Discrimination against Women and its Optional Protocol.
- Strengthen the protection from violence that is provided to women in the Americas by modifying the Statute and Rules of Procedure of the Mechanism to follow up on implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, in ways that will guarantee the independence and impartiality of the Mechanism and provide for effective civil society participation.
- Undertake human rights impact assessments prior to concluding any new trade and investment agreements and after the adoption of any such agreements. These assessments should take into account the full range of governments' human rights obligations.
- Adequately consult with those likely to be affected by new trade rules, including women, Indigenous peoples and other vulnerable populations.
- Provide strong support for the development of UN-level norms regarding the responsibilities businesses carry with respect to human rights.
- Unequivocally affirm that counter-terrorism laws, policies and practices in the Americas must be wholly consistent with international human rights obligations.
- Curtail impunity for human rights abuses, including by ratifying the Rome Statute of the International Criminal Court and enacting necessary implementing legislation.
- Support the development of a global treaty to regulate the international arms trade.

- Adopt, strengthen and fully comply with laws which protect the basic human rights of refugees, migrants and persons subjected to trafficking in the Americas, including through ratification of the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.
- Press for the early adoption of a strong American Declaration on the Rights of Indigenous Peoples and launch a process of consultation with Indigenous peoples regarding ratification of the ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries.
- Reaffirm their commitment to achieving the UN Millennium Development Goals.
- Recognize that economic, social and cultural rights are human rights of equal value to all other human rights and are enforceable in judicial and quasi-judicial settings and entail concrete obligations binding on governments.
- Recognize the crucial role human rights defenders play in upholding human rights in the Americas and provide them with the protection they require.