

# 2003 UN Commission on Human Rights: A Time for Deep Reflection

*“This session of the Commission on Human Rights will call for deep reflection by all of us. [...] This is a time to remind ourselves of the essential role of the Commission on Human Rights in protecting human beings against gross violations through highlighting and publicizing those violations; providing a forum for victims to raise their grievances and to see their issues addressed; heeding the voice of conscience from different parts of the world; enabling NGOs to put alternative views and perspectives from governments; developing norms and standards; and continuing the ‘building blocks’ protection role of the Commission. From this perspective, it is vital that special rapporteurs, representatives of national human rights institutions, and non-governmental organizations are able and encouraged to undertake a dialogue with the Commission. The Commission needs to hear from them.”*

**From Mary Robinson’s closing speech to the 58<sup>th</sup> session  
of the Commission on Human Rights (2002)**

## **Reform of the Commission on Human Rights**

On the last day of the 58<sup>th</sup> session of the Commission on Human Rights (the Commission), a resolution was adopted aimed at enhancing “the effectiveness of the working methods of the Commission”.<sup>1</sup> The resolution noted that while the number of documents submitted to the Commission had increased significantly, the time available for the work of the Commission had been drastically reduced. It therefore called for a thorough review of the working methods of the Commission and requested the Office of the High Commissioner for Human Rights (OHCHR) to solicit ideas and proposals from governments, the Bureau of the 58<sup>th</sup> session, regional groups and organizations, including non-governmental organizations.

Amnesty International welcomed this opportunity to contribute to the debate around enhancing the effectiveness of the Commission and made submissions to both the Bureau of 58<sup>th</sup> session<sup>2</sup> and to the OHCHR. In its submissions Amnesty International focused its recommendations on two main areas: strengthening the special procedures of the Commission and seeking concrete expressions of commitment to human rights by the members of the Commission.

Since its creation, the Commission has played an important role in the promotion and protection of human rights, including through the elaboration of international human rights treaties and the development of the special procedures to examine specific country situations

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<sup>1</sup> Resolution 2002/91.

<sup>2</sup> Decision 2002/115.

and thematic concerns. Yet, in contrast to what has been described by UN Secretary-General as the Commission's "glorious history",<sup>3</sup> is a less honourable record of political interest triumphing over action against human rights violations.

In recent years, members of the Commission have taken no action in the face of grave human rights violations<sup>4</sup>; they have blatantly refused to co-operate with the terms of Commission resolutions;<sup>5</sup> they have not renewed the mandates of country experts in situations where human rights violations are rife;<sup>6</sup> and they have undermined their own human rights experts by imposing severe limitations on their oral presentations.<sup>7</sup>

In 1998, a similar review of the functioning of the Commission was undertaken by the Bureau of the 54<sup>th</sup> session.<sup>8</sup> That review produced a number of pertinent observations and recommendations aimed at "enhancing the capacity of the UN to promote and protect internationally recognized human rights and contribute to the prevention of their violation".<sup>9</sup> Many of these recommendations remain unimplemented. The present review of the working methods of the Commission offers an opportunity to revisit the recommendations of the 1998 review and to consider afresh how the Commission can best deliver its mandate to promote and protect human rights.

### **Membership of the Commission**

Membership of the Commission carries particular responsibilities for those 53 states which sit on the body and in particular those which comprise its Bureau. As a concrete commitment to internationally recognized human rights and to the Commission itself, those standing for election to the Commission should be expected to have already taken, or to announce their intention to take, some or all of the following steps:

- Extend a standing invitation to all the Commission's special procedures and co-operate with their requests to undertake visit, including follow-up visits;<sup>10</sup>

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<sup>3</sup> Report of the Secretary-General on "Strengthening of the United Nations: an agenda for further change" (A/57/387), 9 September 2002, paragraph 46.

<sup>4</sup> China has consistently tabled a "No-Action" motion to prevent Commission scrutiny of its human rights record; at the 2002 session of the Commission Nigeria tabled a "No-Action" motion on a draft resolution on the human rights situation in Zimbabwe.

<sup>5</sup> For example, at the 57<sup>th</sup> Session in 2001 the Russian delegation stated that the Russian Federation would not consider itself bound by the Commission's resolution on Chechnya, and at the 58<sup>th</sup> Session in 2002 Israel refused to grant access to a visiting mission to the Occupied Territories as requested by the Commission.

<sup>6</sup> The 58<sup>th</sup> Session ended the mandates of the Special Rapporteurs on Iran and Equatorial Guinea, in the face of compelling evidence of serious human rights concerns in both countries.

<sup>7</sup> At the 2002 session of the Commission many of the special procedures were unable to present their reports due to cuts in their allocated speaking time.

<sup>8</sup> Decision 1998/112

<sup>9</sup> E/CN.4/1999/104.

<sup>10</sup> At the time of writing, 40 member states have issued a standing invitation, 151 member states have not yet done so.

- Provide written information about implementation of the recommendations by the special procedures;<sup>11</sup>
- Respond promptly to requests for information by the special procedures;<sup>12</sup>
- Ratify key international human rights treaties<sup>13</sup> and their optional protocols, and provide for communications procedures and on-site investigation, as relevant;
- Submit periodic reports to the treaty monitoring bodies on time and in accordance with reporting guidelines;
- Implement the recommendations of the treaty monitoring bodies following consideration of periodic reports and communications; and
- Ratify the Rome Statute of the International Criminal Court.

### **Membership of the Bureau of the Commission**

The expectation that members of the Commission will undertake these steps is particularly pertinent in relation to the five states elected to serve on the Bureau of the Commission. A number of special duties are conferred upon the Chair of the Commission, including the appointment of individuals to special procedures posts, and it is imperative therefore that the Chairperson is, and is perceived to be, an exponent of human rights at the domestic and international levels.

### **The Special Procedures of the Commission**

As noted in the 1998 Review of the Commission, the creation of the special procedures has been one of the Commission's major achievements and constitutes an essential cornerstone of UN efforts to promote and protect human rights.<sup>14</sup> The value of the special procedures lies in their independence and impartiality; their ability to act on violations, including urgent cases, wherever and whenever they occur; the fact that they can speak out publicly against human rights violations and undertake on-site visits. As such, they remain the most dynamic tool that the Commission has at its disposal to tackle human rights violations.

Amnesty International would like to see increased efforts made in this review to place the special procedures firmly at the heart of the Commission process. In particular, the Commission must address the recommendation in the *Vienna Declaration and Programme of Action* calling for adequate means for the special procedures and for follow up to recommendations by the special procedures as a matter of priority. This will require both

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<sup>11</sup> Resolution 2002/84 "Calls upon the Governments concerned to study carefully the recommendations addressed to them under thematic procedures and to keep the relevant mechanisms informed without undue delay on the progress made towards their implementation".

<sup>12</sup> Resolution 2002/84 calls on states to "(a) [Respond] without undue delay to requests for information made to them through the thematic procedures, so that the procedures may carry out their mandates effectively".

<sup>13</sup> These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>14</sup> Observation 5, Report of the Bureau of the 54<sup>th</sup> session of the Commission, E/CN.4/1999/104

political will and increased financial resources. In practical terms, it would entail the following:

- Providing more time for the presentation and discussion at the Commission of the special procedures reports and raising the quality of that dialogue, e.g. by expanding the current time allocation<sup>15</sup> to a minimum of one hour per mandate.
- Building on the 1998 review and recommendations, the Commission's deliberations of reports of the special procedures should follow a set agenda including a more focused dialogue on (a) observations and recommendations of each mechanism, (b) the extent to which current and relevant past recommendations have been addressed by the concerned parties, and (c) the degree of co-operation with the Commission and its mechanisms by the relevant governments, including with respect to requests for visits.
- Reflecting the recommendations of the special procedures in the resolutions and decisions of the Commission, as relevant.

In order to facilitate a meaningful dialogue, the reports of the special procedures must to be available sufficiently in advance of the Commission session. Specifically:

- Reports and recommendations of the special procedures should be available no later than six weeks before the start of the Commission, preferably in all UN languages.
- All reports should continue to have an executive summary listing the principal conclusions and recommendations of the mechanism concerned.
- The OHCHR should produce a comprehensive and regularly updated compilation of the recommendations made by the thematic mechanisms.<sup>16</sup>
- The OHCHR should also produce a compilation by country of concerns and recommendations made by the special procedures, including (a) a summary of cases raised by the special procedures, (b) a summary of recommendations arising from missions, (c) government replies, (d) the extent to which recommendations made by the special procedures have been implemented, including information from UN agencies, (e) requests for visits, including whether the government has issued a standing invitation, (f) the status of ratification of international human rights treaties, (g) the number of overdue reports to the treaty monitoring bodies, and (h) information regarding technical co-operation programs run by OHCHR

Apart from providing the basis for a better quality debate at the Commission, this information could also be a useful tool for drawing up technical co-operation programs within the UN system.

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<sup>15</sup> Under the Commission's rules of procedures, the special procedures are entitled to an introductory statement of 10 minutes, plus 2 additional minutes for each mission undertaken, and concluding remarks of 5 minutes if requested (E/CN.4/2002/16, paragraph 16).

<sup>16</sup> The compilation of the special procedures conclusions and recommendations is called for in resolution 2002/84, paragraph 11.

**Amnesty International calls on the Commission on Human Rights to adopt a resolution to:**

- Strengthen the special procedures of the Commission including through allocating adequate resources to assist their effective functioning, facilitating a meaningful discussion at the Commission of the reports and recommendations of the special procedures, and ensuring the production of timely and relevant documentation, including compilations of the recommendations of the special procedures;
- Call on members of the Commission to take concrete steps to express their commitment to human rights, including through cooperating fully with the special procedures of the Commission, ratifying and implementing the key human rights treaties and cooperating fully and promptly with the treaty monitoring bodies.

### **Human rights and counter-terrorism**

Both before and after 11 September 2001 governments have enacted and applied security legislation and measures to counter “terrorist”<sup>17</sup> acts. Amnesty International condemns in the strongest possible terms the terrorist attacks on the USA on 11 September 2001 and recognizes that states have a duty to protect the right to life of all people within their jurisdiction. However, the organization notes that measures taken by states in response to real or perceived terrorist threats, both before and after 11 September 2001, have long had serious human rights implications. According to Amnesty International’s research, such measures often have a negative impact on the peaceful and non-violent exercise of human rights. Amnesty International condemns unreservedly attacks on civilians, whether committed by states or by non-state actors, whatever the cause for which the perpetrators are fighting, and whatever justifications they give for their actions.

International human rights law imposes two sets of obligations on states with respect to acts commonly described as “terrorism”: first, to take measures to prevent and respond to terrorist acts and second, to ensure that measures taken conform to state obligations under international and regional human rights instruments.

International human rights treaties permit states parties to derogate from or suspend certain rights in times of “emergency”. For example, Article 4 of the International Covenant on Civil and Political Rights (ICCPR) permits derogation when there is a “public emergency which threatens the life of the nation” but requires that the measures are not inconsistent with the states’ other obligations under international law or involve “discrimination solely on the ground of race, colour, sex, language, religion or social origin.” Article 4 also specifies that some rights can never be suspended. These include freedom from arbitrary deprivation of life

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<sup>17</sup> AI uses the term “terrorism” in quotation marks because to date there is still no agreed legal definition of the phenomenon. The term is used and understood by governments and others in very diverse ways generally to describe and condemn acts considered to be the illegitimate use of violence for political purposes usually by non-state actors.

(Article 6); freedom from torture and cruel, inhuman or degrading treatment or punishment (Article 7) and the right to freedom of thought, conscience and religion (Article 18).

### **Human rights violations as a result of counter-terrorism legislation**

Evidence collected by Amnesty International over 40 years of monitoring of laws and practices in response to real or alleged threats to security in all regions of the world reveals a resulting pattern of serious human rights violations.

Amnesty International is concerned that the so-called international “war on terrorism” since the 11 September attacks has created significant new pressure on governments to erode the protection of human rights, and significant new opportunities for them to do so. Security legislation frequently jeopardizes the rights of those suspected of security offences. The definitions of “terrorism” in national security legislation are often both broad and vague and this can lead to the criminalization of peaceful activities that amount to no more than the exercise of rights that are protected by international standards. Amnesty International is particularly concerned that security legislation and measures may undermine specific human rights notably:

- § the right to life, liberty and security of person;
- § the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- § the right not to be subjected to arbitrary arrest or detention;
- § the right to seek asylum, and not to be forcibly returned to a country where the individual is at risk of serious human rights violations.

### **Extrajudicial executions and “disappearances”**

State authorities have frequently responded to “terrorism” by extra-judicially executing people suspected of being or supporting “terrorists” or by making them “disappear”. Extrajudicial killings and “disappearances” are often committed by members of security forces who hide their identities, or by paramilitary groups acting with official complicity and assistance.<sup>18</sup>

### **Torture**

Torture has frequently occurred in the responses of states around the world to “terrorism” and to real or alleged threats to national security. People suspected of being “terrorists” have been tortured to force them to confess or to provide information. People suspected of sheltering and aiding “terrorists” have also been tortured and ill-treated in revenge, to obtain information or to deter them from continuing to provide support. States generally deny that they condone the use of torture as a means of interrogation or to deter opposition. However, they often fail to take effective measures to prevent it by such measures as prohibiting incommunicado

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<sup>18</sup> See for example: *Impunity and human rights violations in Papua*, AI Index: ASA 21/015/2002 and *Nepal – A spiralling human rights crisis*, AI Index: ASA 31/016/2002.

detention, requiring judicial supervision of all detainees and ensuring prompt and independent investigation of complaints.<sup>19</sup>

### **Detention without charge or trial**

The term “administrative detention” is commonly applied to the detention of people whom the authorities allege are involved in “terrorism” or other acts considered to threaten public order or national security, but whom the authorities do not intend to prosecute for criminal offences. Governments around the world have for many years used administrative detention during periods of international and domestic armed conflict and in times of civil unrest. A key justification used by governments for administrative detention is that they cannot present the evidence necessary to secure convictions because that would jeopardize national security and intelligence gathering.<sup>20</sup>

### **Extradition and other transfers of suspected “terrorists”**

A key element of international, regional and bilateral measures to counter “terrorism” is the establishment of procedures to transfer alleged perpetrators. Amnesty International is concerned that in their efforts to facilitate extradition procedures, states will not put in place or will weaken human rights guarantees and may result in extradition to jurisdictions where the alleged perpetrator may face serious human rights violations.<sup>21</sup>

### **International response to terrorism and counter-terrorism**

#### **Security Council**

Within weeks of the 11 September attacks, the UN Security Council adopted a far-reaching resolution<sup>22</sup> setting out measures that states must take to combat terrorism, including preventing and suppressing the financing of terrorist acts; denying safe-haven to those who plan, support or commit terrorist acts; sharing information and assisting other states in criminal investigations or proceedings relating to terrorist acts; and preventing the movement of terrorists. The Security Council also established the Counter Terrorism Committee (CTC) to monitor implementation of the resolution and to draft guidelines for states on what action to take to implement the resolution, including in the field of legislation, executive action, immigration law and practice, and law enforcement. However, states are not required to consider or report on any human rights implications of the measures they take to implement this resolution. Moreover, the CTC did not consider that its task included assessing whether state actions were in compliance with human rights standards and has declined to appoint a human rights expert to assist and advise states in ensuring such compliance.

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<sup>19</sup> See for example: The Russian Federation - Denial of justice, AI Index: EUR 46/027/2002 and Equatorial Guinea: Detainees held incommunicado risk being tortured to death, AI Index: AFR 24/003/2002.

<sup>20</sup> See for example: *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay, 15 April 2002*, AI Index: AMR 51/053/2002, and *USA: Beyond the law, Update to AI's April Memorandum to the US Government on the rights of detainees held in US custody in Guantánamo Bay and other locations*, AI Index: AMR 51/184/2002.

<sup>21</sup> See for example: *Yemen: human rights violations have no justification*, AI Index: MDE 31/003/2002

<sup>22</sup> Security Council Resolution 1373 adopted on 28 September 2001.

### **58<sup>th</sup> session of the Commission on Human Rights 2002**

In view of the CTC's refusal to consider the human rights implications of counter-terrorism measures by states, Amnesty International and other NGOs looked to the Commission on Human Rights, the UN's main human rights body, to address this crucially important issue. At the 58<sup>th</sup> session of the Commission, in March-April 2002, the then UN High Commissioner for Human Rights Mary Robinson invited the Commission to consider establishing a new mechanism to monitor the implementation of the Resolution 1373 "from a human rights perspective".<sup>23</sup> UN Secretary-General Kofi Annan also reaffirmed the duty of states to protect their citizens, but stressed the need for states to "take the greatest care to ensure that counter-terrorism does not [...] become an all-embracing concept that is used to cloak, or justify, violations of human rights".<sup>24</sup>

Mexico drafted a resolution on human rights and counter-terrorism which called for the OHCHR to analyse the effects of counter-terrorism measures and make recommendations. Although the draft resolution received broad support from a large number of delegations, a few states were unhappy with the draft and the short time available to discuss it. These factors and various proposed amendments which Mexico considered would significantly weaken the text led to the resolution being withdrawn before it could be put to a vote. The Commission's failure to respond to one of the key human rights challenges in today's world means that there is currently no international mechanism "with a clear mandate to assess whether measures taken and justified by a State as necessary to combat terrorism are in violation of human rights standards which that State has accepted", as noted by the then High Commissioner for Human Rights.<sup>25</sup> The challenge therefore remains for the 59<sup>th</sup> session of the Commission to take concrete action to address the issue of human rights and counter-terrorism.

### **57<sup>th</sup> session of the UN General Assembly 2002**

At the start of the session, Mexico revived the proposal it had had to abandon at the Commission and tabled a resolution on human rights and counter-terrorism. Amnesty International welcomed the unanimous adoption by the UN General Assembly of this resolution<sup>26</sup> which reaffirmed the importance of respecting human rights, fundamental freedoms and the rule of law in combating terrorism. The resolution stressed states' obligations to ensure that certain non-derogable rights are fully observed at all times, and that if states derogate from their obligations, they must meet all the requirements of Article 4 of the ICCPR. The resolution also asks the High Commissioner for Human Rights to monitor the protection of human rights while countering terrorism and to make recommendations to states. Finally the resolution requests the UN Secretary-General to submit reports on the

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<sup>23</sup> Statement by Mary Robinson, United Nations High Commissioner for Human Rights at the opening of the 58<sup>th</sup> Session of the Commission on Human Rights, Geneva, 18 March 2002.

<sup>24</sup> Statement by the UN Secretary-General to the Commission on Human Rights, SG/SM/8196.

<sup>25</sup> Address by the High Commissioner for Human Rights to the OSCE Permanent Council, Vienna, 19 July 2002.

<sup>26</sup> A/RES/57/219, adopted by consensus on 21 November 2002.



implementation of the resolution, both to the 59<sup>th</sup> session of the Commission on Human Rights and to the 58<sup>th</sup> session of the General Assembly in 2003.

**Amnesty International calls on the Commission on Human Rights to adopt a resolution to:**

- Call on all states to ensure that in taking counter-terrorism measures they must ensure protection of both the security and the human rights of all people within their jurisdiction, ensure that non-derogable rights are strictly observed, and take account of relevant recommendations by the human rights treaty monitoring bodies, including General Comment 29 of the Human Rights Committee;
- Establish a new mechanism with a mandate to monitor and analyze the impact on human rights of measures taken by states to combat terrorism, and to make recommendations to states on safeguarding human rights in this context;
- Request relevant special procedures of the Commission on Human Rights to monitor and report, as appropriate, on the impact of counter-terrorism measures on human rights and to make recommendations for their effective observance;
- Request the UN High Commissioner for Human Rights to ensure high-level capacity at the OHCHR to support and coordinate efforts by various UN bodies to monitor and analyse the impact on human rights by counter-terrorism measures by states.

### **The death penalty**

Each year since 1997 the Commission on Human Rights has adopted a resolution on the question of the death penalty<sup>27</sup>. These resolutions are important indications of the views of member states on how to achieve the agreed UN goal of abolition of the death penalty.<sup>28</sup> A similar draft resolution is expected to be presented to the 59<sup>th</sup> session of the Commission in 2003.

The resolutions call upon states that retain the death penalty to establish a moratorium on executions and to observe agreed safeguards in death penalty cases. In 2002 for the first time, language was added urging retentionist states not to impose the death penalty for “non-violent acts such as . . . sexual relations between consenting adults”.<sup>29</sup>

For the Commission’s consideration of the question, an important source of information will be the yearly supplement to the Secretary-General’s quinquennial report on

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<sup>27</sup> At the 58<sup>th</sup> session, the Commission adopted resolution 2002/77.

<sup>28</sup> General Assembly resolution 32/61 of 8 December 1977.

<sup>29</sup> Paragraph 4(c) of resolution 2002/77.

capital punishment, to be submitted to the 59<sup>th</sup> session of the Commission.<sup>30</sup> Amnesty International's own information indicates continuing progress towards worldwide abolition. In 2002 Turkey abolished the death penalty in peacetime, while the death penalty was abolished for all crimes in Cyprus and the Federal Republic of Yugoslavia. By mid-December 2002, 76 countries had abolished the death penalty for all crimes; 15 had abolished it for ordinary crimes only and 20 were abolitionist in practice, giving a total of 111 countries abolitionist in law or practice. Eighty-four countries retained the death penalty, but many of these did not carry out executions during the year.

Another important development was the adoption in February 2002 by the Council of Europe of Protocol No. 13 to the European Convention on Human Rights, the first international treaty to provide for the abolition of the death penalty in all circumstances without exception. By the end of 2002, the protocol had been ratified by 5 of the 44 Council of Europe member states and signed by a further 34 states. The other three abolitionist treaties – the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), Protocol No. 6 to the European Convention on Human Rights and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty – had been ratified by 49, 41 and 8 states respectively.

Despite these positive developments, executions have continued, and in some countries the safeguards referred to in resolution 2002/77 have not been respected. The death penalty has been applied against the mentally ill and the mentally retarded, against people convicted of non-violent crimes and in many cases in which the defendants have not received a fair trial.

Amnesty International remains deeply concerned about the use of the death penalty against child offenders – people convicted of crimes committed when they were under 18 years old. Such use is contrary to resolution 2002/77 as well as the Commission's resolutions 2002/36, 2002/47 and 2002/92.<sup>31</sup> Amnesty International believes it is also a violation of customary international law:

- 192 states are now parties to either the ICCPR or the Convention on the Rights of the Child, both of which exclude the use of the death penalty against child offenders.
- When the USA on ratifying the ICCPR entered a reservation to exempt itself from the relevant provision of that treaty, 11 other states objected to the reservation. The Human Rights Committee recommended that the USA withdraw the reservation and stated that it believed the reservation to be incompatible with the object and purpose of the ICCPR.<sup>32</sup>

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<sup>30</sup> Paragraph 8 of resolution 2002/77.

<sup>31</sup> Resolutions 2002/47 and 2002/92 were adopted without a vote.

<sup>32</sup> UN document A/50/40, 3 October 1995, paragraphs 279 and 292.

- Executions of child offenders are very rare in comparison to the number of executions carried out worldwide. In 2002 Amnesty International learned of only three executions of child offenders, all in the USA.
- Very few countries still execute child offenders. Of the seven countries reported to have done so since 1990, two (Pakistan and Yemen) have since raised the minimum age to 18, as has China, and others have denied that they execute child offenders. Only one country, the USA, regularly executes child offenders and acknowledges doing so.
- The Inter-American Commission on Human Rights held in October 2002 that “a norm of international customary law has emerged prohibiting the execution of offenders under the age of 18 years at the time of their crime”.<sup>33</sup>

Amnesty International has also been concerned about expansions of the scope of the death penalty. Contrary to the agreed UN position that “the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment”,<sup>34</sup> at least two countries extended the scope of the death penalty to “terrorist”-related crimes in 2002 (Guyana and Indonesia), and several other countries are currently discussing the possibility of expanding its scope.

At the 59<sup>th</sup> session of the Commission, Amnesty International will be working together with other members of the World Coalition against the Death Penalty. This organization, founded in Rome in May 2002, is a coalition of human rights organizations, trade unions, bar associations and local and regional authorities from different parts of the world which have pledged to work for the abolition of the death penalty worldwide.

**Along with the other members of the World Coalition against the Death Penalty, Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution on the question of the death penalty which reiterates the provisions of the Commission’s previous resolutions on the subject, as well as:
- Affirm that the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law, as stated by the Commission’s Sub-Commission on the Promotion and Protection of Human Rights,<sup>35</sup>
- Call upon states that still maintain the death penalty not to extend its application to crimes to which it does not presently apply as the Commission has repeatedly called on states which maintain the death penalty “progressively to restrict the number of

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<sup>33</sup> *Michael Domingues v. USA*, Report No. 62/02, Merits, case 12.285, 12 October 2002, paragraph 84.

<sup>34</sup> UN General Assembly resolution 32/61.

<sup>35</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, resolution 2000/17 of 17 August 2000.

offences for which the death penalty may be imposed”;<sup>36</sup> therefore as a minimum requirement, they should not extend its application to crimes to which it does not presently apply as also provided in Article 4(2) of the American Convention on Human Rights;<sup>37</sup>

- Decide to discuss the issue the issue again at its 60<sup>th</sup> session in 2004.

Amnesty International and the other members of the World Coalition against the Death Penalty urge all members of the Commission to vote in favour of such a resolution, and appeal to all states to co-sponsor it.

### **An optional protocol to the International Covenant on Economic, Social and Cultural Rights**

The 57<sup>th</sup> session of the Commission (2001) appointed an Independent Expert<sup>38</sup> to examine the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and to submit a report to the 58<sup>th</sup> session (2002). In his report, the Independent Expert noted that the system of economic, social and cultural rights had lagged behind in development compared to the system which is in place for civil and political rights. Only in 1985 did ECOSOC decide to establish the Committee on Economic, Social and Cultural Rights to monitor compliance by states parties with the provisions of the ICESCR, and to date there is no procedure for individuals to submit communications about violations of the rights contained in the ICESCR. The Independent Expert also raised a number of issues which he considered warranted further study, including which specific set of rights in the ICESCR should be covered by the proposed new procedure, whether the Committee on Economic, Social and Cultural Rights would be the appropriate body to consider individual complaints, the criteria for such complaints and the nature and scope of any remedies. In conclusion, the Independent Expert recommended that the Commission should extend his mandate for one more year to allow these issues to be further examined.

The resolution on economic, social and cultural rights<sup>39</sup> adopted by the 58<sup>th</sup> session of the Commission included several references to the need to elaborate an optional protocol to the ICESCR:

- It extended the mandate of the Independent Expert and requested him to address in his report to the 59<sup>th</sup> session “the question of the nature and scope of state parties’ obligations” under the ICESCR, the conceptual issues of “justiciability of economic,

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<sup>36</sup> Commission resolutions 2002/77, 2001/68 and previous resolutions on the question of the death penalty.

<sup>37</sup> With reference to the death penalty, Article 4(2) of the American Convention on Human Rights states: “The application of such punishment shall not be extended to crimes to which it does not presently apply.”

<sup>38</sup> In June 2001, Mr. Hatem Kotrane (Tunisia) was appointed Independent Expert.

<sup>39</sup> Commission on Human Rights Resolution 2002/24.

social and cultural rights”, and “the benefits and practicability of a complaint mechanism under the Covenant”;

- It further decided to establish, at its 59<sup>th</sup> session, an open-ended working group of the Commission to consider options relating to the elaboration of an optional protocol to the ICESCR.

NGOs have long campaigned for an optional protocol to the ICESCR, and Amnesty International has now joined them in calling for this mechanism, including at the 54<sup>th</sup> session of the Sub-Commission on the Promotion and Protection of Human Rights (2002) where a resolution was adopted which urged the Commission to mandate the open-ended working group to “proceed with the drafting of the substantive text of an optional protocol to the ICESCR”.<sup>40</sup>

### **Why is an Optional Protocol to the ICESCR important?**

The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, confirmed the universality, indivisibility, interrelatedness and interdependence of all human rights<sup>41</sup> and called on the Commission, in cooperation with the Committee on Economic, Social and Cultural Rights, “to continue the examination of optional protocols to the ICESCR”.<sup>42</sup> Yet, nearly a decade later there is still no initiative underway to draft an individual complaints procedure under this Covenant. The benefits of an optional protocol have been enumerated by both the Committee on Economic, Social and Cultural Rights and by NGOs:

- An optional protocol to the ICESCR would provide individuals and groups with international recourse with respect to violations of economic, social and cultural rights;
- It would mark an important step towards strengthening the principle of progressive realization of social, economic and cultural rights to which states parties to the ICESCR have committed themselves;
- The consideration of specific cases of violations of economic, social and cultural rights would contribute to the development of jurisprudence;
- It would strengthen the relationship between the Committee on Economic, Social and Cultural Rights and states parties by creating an impetus at the national level for states parties to ensure effective national implementation of the rights guaranteed in the ICESCR; and,
- It would further support the interdependence and indivisibility of civil, political, economic, social and cultural rights;

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<sup>40</sup> Sub-Commission Resolution 2002/14.

<sup>41</sup> Vienna Declaration and Programme of Action, Article 5.

<sup>42</sup> *Ibid*, Article 75.

**Amnesty International calls on the Commission on Human Rights to adopt a resolution to:**

- Establish without delay an open-ended inter-sessional working group of the Commission to elaborate a draft optional protocol to the ICESCR, as established by Resolution 2002/24, in close cooperation with the Committee on Economic, Social and Cultural Rights, the Independent Expert, and relevant Special Rapporteurs, and on the basis of the guidelines contained in the annex to the report of the Committee on Economic, Social and Cultural Rights<sup>43</sup>;
- Request the working group to meet between sessions for a minimum of two weeks before the 60<sup>th</sup> session of the Commission;
- Request the Secretary-General to provide the working group with the necessary assistance.

### **Human rights of refugees and asylum-seekers**

The Commission on Human Rights and its subsidiary body, the Sub-Commission for the Promotion and Protection of Human Rights (Sub-Commission) have been seized of the issues relating to various aspects of displacement for some time now. These bodies have examined issues relating to Internally Displaced Persons (IDPs), migrants, forced population transfer, mass exodus, and detention of asylum seekers, amongst others. In addition, Palestinian refugee issues, which are specifically excluded from the mandate of the United Nations High Commissioner for Refugees (UNHCR), have been considered by the Commission.<sup>44</sup> It is clear, therefore, that the global refugee problem and the human rights of refugees and asylum seekers do not fall exclusively within the mandate of the UNHCR, but also come within the remit of the UN's human rights bodies. Issues relating to the human rights of refugees and asylum seekers have come up repeatedly within these bodies over the last few years, but only as aspects of broader human rights themes. Amnesty International would therefore urge that the Commission place specific emphasis on refugee protection as a human rights issue, and of asylum seekers and refugees as part of the larger group of non-nationals protected by human rights standards.

Amnesty International's work for the protection of refugees, asylum seekers and other categories of displaced persons is an essential component of its work for the protection of human rights. Amnesty International calls on the Commission to bring greater prominence to

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<sup>43</sup> E/CN.4/1997/105

<sup>44</sup> The United Nations Relief and Work Agency for Palestinian Refugees in the Near East (UNRWA) was established by General Assembly resolution 302 (IV) on 8 December 1949 to provide relief aid and works to Palestinian refugees. When UNHCR was created two years later, and due to the geo-politics of the Arab-Israeli conflict and superpower interests, Palestinian refugees were purposely excluded from the competence of UNHCR. UNRWA thus continues to be the UN agency mandated to provide relief to this category of refugees, although its mandate does not extend to the provision of legal protection or third country resettlement.

the human rights of refugees and asylum seekers, an issue which traditionally has not been granted much focused space within the work of the UN human rights bodies. The rationale for approaching the Commission is to ensure, in a post-Cold War and post-11 September world, that a human rights framework is brought to bear on matters of the protection of displaced persons. This is especially relevant at a time where states are attempting to roll back many of the protection-related aspects of the international refugee regime. It is Amnesty International's position that respect for the human rights of refugees, asylum seekers and other categories of displaced persons is necessary to protect the safety, dignity and integrity of *all* individuals from abuses of power, and to shield this specific category of individuals from the particular vulnerability of their situation.

No comparable monitoring body to the range of mechanisms established under international human rights law exists within international refugee law. Thus, while Amnesty International continues to approach the 1951 Convention relating to the Status of Refugees as a human rights instrument, and continues to press states to uphold their obligations under this Convention, the organisation also advocates increased use of international human rights bodies and mechanisms to ensure the protection of refugees and asylum seekers.

#### **Human rights and root causes of displacement**

Amnesty International is concerned that the human rights abuses in countries of origin that, together with displacement during armed conflict, most often are the root causes of forced displacement are permitted by governments and the international community to flourish unchecked. In West Africa a series of armed conflicts in several of the states in the region has resulted in decades of displacement for millions of people. Refugees and IDPs have been deliberately targeted by government forces and armed groups, while the principle of *non-refoulement*, a fundamental precept of international human rights law as well as international refugee law, has been flouted with impunity.

#### **Voluntary repatriation and 'durable solutions'**

The search for solutions to the problem of refugee flight is often distorted by the fact that the 'solutions' proposed by governments and the international community do not uphold fundamental standards of human rights and hence are not durable. For return to be sustainable, the safety, dignity and full respect for the human rights of the persons concerned must be taken into effective consideration. A failure to ensure this will most often lead to further cycles of displacement, leaving refugees and asylum seekers vulnerable to sexual and other forms of exploitation. In the case of refugees and asylum seekers from Afghanistan, the haste with which states in the European Union and others are negotiating agreements for the return of such persons, in the absence of durable change in the situation on the ground, appears to be at odds with the requirement that return should be sustainable and consistent with principles of international refugee and human rights law.

#### **Arbitrary detention**

Due to the situation of heightened vulnerability in which they find themselves, refugees and asylum seekers are often at risk of being subject to arbitrary detention. Under international

human rights law, the rights to liberty and freedom from arbitrary detention have been a core element of formal human rights standards since they were enshrined in Articles 3 and 9 of the UDHR. Amnesty International has voiced its opposition to the 'Pacific Solution' operated by Australia on the grounds that, in the absence of fundamental human rights safeguards (such as independent periodical review of detention in individual cases), such detention is arbitrary and violates international law.

### **Economic, social and cultural rights of displaced persons**

The denial of economic, social and cultural rights in the country of asylum can result in people being effectively forced to return to countries where they may face serious human rights violations. Further, the denial of such rights in countries where asylum seekers first seek refuge can result in the onward movement of such persons to country after country in a seemingly endless search for protection. The interdependence and indivisibility of all human rights – civil, political, economic, social and cultural, and the domino effect of grave violations of the full spectrum of rights, has been tragically illustrated by the sexual exploitation of displaced women and girl children in West Africa and Nepal by humanitarian aid workers.

#### **Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution on human rights and refugees which recognises that everyone is entitled to human rights and fundamental freedoms without distinction of any kind and that refugees and asylum seekers, because of their particular need for international protection, enjoy certain additional and specific rights, including the right to seek and enjoy asylum from persecution as stated in Article 14 of the Universal Declaration of Human Rights;
- Call on relevant Special Procedures of the Commission to give specific attention to the human rights of refugees and asylum seekers;
- Request the UN High Commissioner for Human Rights to prepare an analytical report on the protection of the human rights of refugees and asylum seekers, based on the various references to refugees and asylum seekers in Commission and Sub-Commission resolutions and reports, and to submit it to the 60<sup>th</sup> session of the Commission.



## Country situations

### Colombia

At the 58<sup>th</sup> session of the Commission on Human Rights, a Chairperson's statement on the human rights situation in Colombia<sup>45</sup> was adopted by consensus. The statement urged that the cooperation between the Colombian Government and the OHCHR be further strengthened and that the recommendations by the OHCHR be urgently complied with. It condemned the persistence of impunity and continued violations of human rights and international humanitarian law. It encouraged the parties to the conflict in Colombia to negotiate a political solution, and called on all armed opposition groups to comply with international humanitarian law. It further expressed concern about alleged links between the military and the paramilitaries and deplored attacks on human rights defenders, trade union leaders and church dignitaries.

Amnesty International is deeply concerned to note that following the collapse in February 2002 of peace talks between the government and the armed opposition group, *Fuerzas Armadas Revolucionarias de Colombia*<sup>46</sup> (FARC), the internal conflict has further intensified with devastating consequences for the civilian population in the areas affected by the conflict. Amnesty International has observed little or no progress with regard to implementing the recommendations of the UN. Amnesty International has continued to receive information which reveals widespread and systematic violations of human rights by the security forces and their paramilitary allies and abuses of international humanitarian law by armed opposition groups.

Moreover, Amnesty International is deeply concerned that measures taken by the new government under President Dr. Alvaro Uribe to address the internal conflict are in fact exacerbating the human rights crisis as well as being contrary to UN recommendations to end impunity, dismantle the paramilitaries, and guarantee the safety of vulnerable groups. President's Uribe's so-called doctrine of "Democratic Security", aimed at ending the armed conflict, does not include a program to combat abuses of human rights and international humanitarian law, and as such marks the failure of the government to acknowledge that security cannot be guaranteed without full respect for human rights. Rather than shielding the civilian population from the armed conflict the government's measures risk dragging civilians further into the conflict. The creation of a network of civilian informants and "peasant soldiers" required to collaborate with the security forces puts them in danger of attacks by the other side in the conflict; the proposed granting of judicial police powers to the armed forces; and the restricted access to conflict areas serve only to compound the already serious human rights situation in Colombia.

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<sup>45</sup> OHCHR/STM/CHR/02/3.

<sup>46</sup> Revolutionary Armed Forces of Colombia.

The FARC continues to be responsible for serious violations of international humanitarian law, including killings of civilians whom they accuse of collaborating with their enemies, and for indiscriminate and disproportionate attacks which have resulted in the killing and wounding of hundreds of civilians. Moreover, the FARC and the *Ejército de Liberación Nacional*<sup>47</sup> (ELN) are responsible for well over 1,500 cases of kidnapping and taking of hostages each year.

### **Impunity for human rights violations**

On 25 November 2002, the Constitutional Court declared key parts of Decree 2002<sup>48</sup> unconstitutional, most importantly those granting judicial police powers to the armed forces, and in December Congress failed to approve government proposals to defer such powers to the security forces. However, the government has recently announced its intention to reintroduce these proposals to Congress in March 2003. Previous administrations have also sought to give judicial police powers to the armed forces. However, on each occasion these efforts have been declared unconstitutional by the Constitutional Court.<sup>49</sup> In the past, the Human Rights Committee has expressed its concern that the Colombian “military exercise the functions of investigation, arrest, detention and interrogation”.<sup>50</sup>

Despite ample evidence of military culpability in human rights violations, either directly or in collusion with the paramilitary, few members of the security forces have ever been brought to justice. The fact that those responsible for widespread political killings and “disappearances” are seldom punished has undermined public confidence in the administration of justice and the rule of law.

Over the last year, the ability or willingness of the *Fiscalía General de la Nación*<sup>51</sup> to advance investigations into human rights violations has increasingly been called into question. In its 2002 Report, the Colombia Office of the OHCHR expressed its concern “about the changes that have occurred since the appointment of the new Attorney-General<sup>52</sup> – affecting the orientation of his Office and involving the dismissal of certain officials, among other things – which have raised serious fears about the prospects for strengthening the institution and its commitment to combating impunity.”<sup>53</sup>

Amnesty International has received reports that the *Fiscalía General de la Nación* has sought to block or hinder investigations into human rights violations in which senior military officers are implicated. Prosecutors working on such cases have frequently been removed

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<sup>47</sup> National Liberation Army.

<sup>48</sup> According to Article 213 of Colombia’s 1991 Constitution the government may issue decrees that “suspend any laws that are incompatible with the State of Internal Commotion”. Decree 2002 came into force on 9 September 2002 and allows the armed forces to detain suspects and carry out house searches without a judicial warrant.

<sup>49</sup> Attempts by then President Andrés Pastrana to give judicial police powers to the military, a measure included in the Defence and National Security Law, were declared unconstitutional on 11 April 2002.

<sup>50</sup> Human Rights Committee, Concluding Observations (CCPR/C/79/Add.76): 05/05/97, para. 19.

<sup>51</sup> Office of the Attorney General which is responsible for investigating and prosecuting all crimes.

<sup>52</sup> Luis Camilo Osorio Isaza, appointed in July 2001.

<sup>53</sup> E/CN.4/2002/17, 28 February 2002.

from cases or dismissed from their posts; some have received death threats. Witnesses and colleagues working on these investigations have also been killed.

### **Lack of access to conflict zones**

Amnesty International is concerned that the creation of Rehabilitation and Consolidation Zones is designed to screen off these areas from observation by national and international human rights organizations and the media and to make it difficult for them to monitor and document human rights violations. In this way “dirty war” tactics carried out by paramilitaries in conjunction with the armed forces can continue unhindered. People living in these areas, including local human rights workers, could now be required to report any planned travel outside a municipality to the authorities. This may facilitate surveillance of their legitimate work and expose them to increased risk of reprisal should they try to travel outside a region to monitor human rights violations. The government has also decided that foreign human rights and humanitarian NGO workers must seek special NGO visas – which are bureaucratic and expensive to obtain – to travel to the country. Several foreigners have been deported from Colombia prior to and since the creation of the Rehabilitation and Consolidation Zones.

### **Links to paramilitary groups**

Illegal paramilitaries, backed by the army, have tortured, killed and “disappeared” for decades with virtual impunity. Their collaboration with the security forces has been well documented by Amnesty International, as well as in reports by the UN and the Organization of American States, and criminal and disciplinary investigations continue to implicate high-ranking security force officers in serious human rights violations committed by paramilitary units. In her report to the 58<sup>th</sup> session of the Commission, the Special Representative of the Secretary-General on human rights defenders recommended that the government should “dismantle paramilitary groups for good by arresting, prosecuting and punishing anyone who encourages, leads, participates in, support or finances them”.<sup>54</sup>

Over recent years, the security forces have captured increasing numbers of alleged paramilitaries.<sup>55</sup> However, it is unclear how many of these are in detention, and how many are under investigation or have been charged with violations of human rights. The Ministry of Defence has also provided statistics indicating an increase in the numbers of paramilitaries killed in the course of security force operations.<sup>56</sup> However, the fact that paramilitaries have been killed and captured by the security forces over the last two years has not prevented the continued spread and consolidation of paramilitary forces throughout the country, including in areas with a heavy military presence.

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<sup>54</sup> Paragraph 298, E/CN.4/2002/106/Add.2.

<sup>55</sup> The Ministry of Defence’s Annual Human Rights and International Humanitarian Law Report 2001, published in February 2002, records 992 detentions of paramilitaries. Ministry of Defence figures published on 18 September 2002 suggest that in January-August 2002, 658 paramilitaries were captured.

<sup>56</sup> In January-August 2002 the Ministry of Defence recorded 135 paramilitaries killed in combat.

### **Civilians caught up in the conflict**

The armed forces' counter-insurgency strategy is aimed at undermining what they perceive to be the civilian population's continued support for the armed opposition groups. Failure to actively collaborate with the state and the military often leads to the systematic harassment of the civilian population and to its stigmatization as "guerrilla sympathizers".

The government's policies do not appear to respect the right of the civilian population not to be drawn into the conflict. In fact, in a letter sent to Amnesty International on 16 October 2002, President Uribe stated: "Nobody can be neutral in the state's fight against criminality."

During Alvaro Uribe's presidential campaign, he announced his intention to create a million-strong network of civilian informants to compile and pass on intelligence information on illegal armed groups to the security forces. The creation of this network gives civilians a direct role in the conflict, blurring the distinction between civilians and combatants and making them liable to be viewed as targets by armed opposition groups. The government has also announced plans to recruit 150,000 "peasant soldiers" who would participate in the war against armed opposition groups while continuing to live within their own communities. This will place them at increased risk of attack by armed opposition groups.

During the last decade some two and a half million people have been internally displaced by the conflict, and the rate of forced displacement continues to increase dramatically.<sup>57</sup>

### **Attacks on civil society**

Amnesty International fears that the government's policies will legitimize attacks against those sectors of the civilian population labelled as "guerrilla collaborators" by the security forces and their allies. Since Decree 2002 was implemented Amnesty International has received numerous reports of mass detentions, many undertaken without judicial warrants. Some of those detained have been held without charge for extended periods of time and on occasions detainees have been kept in conditions which could constitute inhuman and degrading treatment.

Amnesty International has documented cases of human rights violations against human rights defenders, trade unionists and other social activists committed by the security forces or their paramilitary allies. Frequently these attacks have followed accusations by the security forces that the victims were "guerrilla collaborators".

The Special Representative of the Secretary-General on human rights defenders urged the government "to adopt appropriate measures to disseminate and ensure full observance of the Declaration on Human Rights Defenders" and to "initiate and maintain a constant

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<sup>57</sup> Between 1 July and 30 September 2002 149,387 people were forcibly displaced from their homes, compared to 90,179 and 113,554 in the first two trimesters of the year.

dialogue with NGOs in order to respond to their concerns and to coordinate measures which would strengthen their protection and their activities".<sup>58</sup>

**Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution expressing grave concern at the deepening human rights crisis in Colombia;
- Express profound disappointment that the recommendations adopted by the 58<sup>th</sup> session of the Commission remain unimplemented and urge the government to draw up a national plan of action for full and prompt implementation of the recommendations made by the UN and other international organizations;
- Call on the government and armed opposition groups to sign a humanitarian agreement that would protect the civilian population and ensure full respect for human rights and international humanitarian law, as called for by the UN Secretary-General;<sup>59</sup>
- Urge the government to take urgent steps to end impunity for human rights violations by undertaking prompt and impartial investigations into all allegations of human rights violations, ensuring that those responsible stand trial in civilian courts in accordance with international standards for fair trial;
- Urge the government to take effective and decisive action to combat and dismantle paramilitary groups and to sever the links between the security forces and the paramilitaries;
- Urge the government to take all necessary measures to guarantee the protection of human rights defenders and to implement in full the recommendations of the Special Representative of the UN Secretary-General on human rights defenders;
- Urge the government to abandon measures that risk dragging the civilian population further into the conflict, including the networks of civilian informants and the army of "peasant soldiers";

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<sup>58</sup> Report by the Special Representative of the Secretary-General on human rights defenders to the 58<sup>th</sup> session of the Commission on Human Rights, Paragraph 299, E/CN.4/2002/106/Add.2.

<sup>59</sup> Report of the Secretary-General on the work of the Organization, Paragraph 30, A/57/1.

- Urge the government to fully implement the *Guiding Principles on Internal Displacement*<sup>60</sup>, including prevention of forced displacement, protection of the internally displaced, access to humanitarian aid and the right to return or resettlement;
- Urge the government to give access to international human rights and humanitarian organizations to conflict zones and remove restrictions on movement, including those contained in Decree 2002;
- Encourage the government to cooperate fully with the UN including issuing standing invitations to all the thematic mechanisms of the Commission to visit Colombia;
- Secure adequate funding for and continue to strengthen the mandate of the Colombia Office of the OHCHR, including through increased field presence;
- Request the High Commissioner for Human Rights to submit a report on Colombia to the 60<sup>th</sup> session of the Commission and an interim report to the 58<sup>th</sup> session of the UN General Assembly.

### **Democratic Republic of the Congo (DRC)**

At the 58<sup>th</sup> session of the Commission on Human Rights, a resolution was adopted<sup>61</sup> which called on all parties to the conflict to respect international human rights and humanitarian law, end the use and recruitment of child soldiers, allow the safe return of refugees and internally displaced people, and allow free access to areas under their control. It further called on the government of the DRC to end impunity, reform and restore the judicial system, respect freedom of expression and association, and cooperate with the Human Rights field office. Finally it called on the Commission to extend the mandate of the Special Rapporteur on the DRC, request a joint mission by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on enforced or involuntary disappearances, and support the Human Rights field office in the DRC.

Amnesty International remains deeply concerned by systematic and widespread human rights abuses, including the unlawful killing of hundreds of thousands of unarmed civilians, and the displacement of as many as one million people from their homes while hundreds of thousands others have fled the country. Various armed forces, particularly those under the command of the governments of the Democratic Republic of the Congo, Rwanda, and Uganda, as well as Congolese and other foreign armed political groups, are responsible for systematic and countrywide human rights violations. Deliberate reprisals against the civilian population are a common reaction by all sides to military setbacks and many unarmed

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<sup>60</sup> These Principles were prepared by the Representative of the Secretary-General on internally displaced persons and included in his report to the 54<sup>th</sup> session of the Commission on Human Rights (E/CN.4/1998/53/Add.2).

<sup>61</sup> Commission on Human Rights resolution 2002/14, adopted without a vote

civilians are deliberately and arbitrarily killed or “disappeared” in revenge attacks. Torture, including rape, is widespread. All sides have used the war to justify the repression of political dissent and the imprisonment of opponents remains routine.

Amnesty International welcomes the decision of the UN Security Council<sup>62</sup> on 4 December 2002 to expand the deployment of United Nations Organization Mission in the Republic Democratic of the Congo (MONUC) to 8,700 military personnel. According to the resolution the expanded MONUC will reinforce the existing task force in the disarmament, demobilization and reintegration process, assist in the destruction of impounded weapons and munitions, and monitor the withdrawal of foreign troops from the territory of the DRC.

### **Human rights violations in regions controlled by the DRC government**

The trial of those suspected of involvement in the assassination of former President Laurent-Désiré Kabila which began in March 2002 was closed to independent observers for the initial five months. Amnesty International is concerned that it did not meet international standards of fair trial. On 11 October 2002, the prosecution wound up its case by requesting the death penalty for 115 of the 135 accused. Earlier, on 23 September, the government announced that it had lifted a moratorium on executions, which had nominally been in place for the past three years. The government also announced that a law had been promulgated to abolish the *Cour d'ordre militaire*<sup>63</sup> (COM), on 18 December 2002. Although Amnesty International welcomes the abolition of the COM, the organization is concerned that death sentences imposed by the court before its dissolution might still be implemented.

Members of the security forces carry out unlawful killings of unarmed civilians and use excessive force, and in virtually all cases the government has failed to take action against suspected perpetrators. On 10 November 2002, dozens of unarmed civilians were unlawfully killed by government forces during armed clashes in Ankoro in the south-eastern Katanga Province, between the pro-government soldiers and Congolese armed political groups known as the *Mayi-Mayi* militia. Tens of thousands were forced to flee. In Mbuji-Mayi, the hub of the DRC's diamond trade, guards employed by the *Société Minière de Bakwanga*<sup>64</sup> (MIBA), the largely state-owned mining company, have frequently used excessive and lethal force against unauthorized miners, killing dozens and injuring many more. Yet, not a single MIBA guard is known to have been brought to justice.

Torture and ill treatment continue to be widespread, especially in unofficial detention centres run by the security forces. Detainees are almost invariably held incommunicado and are routinely refused medical care. Beatings, including whippings with *cordelettes* (military belts), are particularly common. There are numerous reports of women in custody being raped by members of the security forces. Psychological torture, such as death threats and mock executions, is also frequent. Conditions in many detention centres are appalling. At

<sup>62</sup> Security Council Resolution 1445

<sup>63</sup> Military Order Court

<sup>64</sup> Mining Society of Bakwanga

least 46 prisoners are reported to have died between March and June 2002 in Kinshasa's main prison, *Centre Pénitentiaire et de Rééducation de Kinshasa*<sup>65</sup> (CPRK), previously known as Makala Prison. They reportedly died as a result of ill-treatment, lack of medical care and lack of food.

Human rights defenders are routinely harassed, threatened and detained for investigating human rights violations by government security forces and press freedom remains under threat as journalists continue to face detention and ill-treatment.

### **Human rights violations in regions controlled by foreign government forces**

In areas of eastern DRC, controlled by armed political groups supported by foreign government forces, particularly from Burundi, Rwanda and Uganda, human rights abuses are widespread and include unlawful killings of unarmed civilians, arbitrary arrests, unlawful detention and torture, including rape, and recruitment of child soldiers. Amnesty International is also deeply concerned for the safety of human rights activists who are routinely threatened by armed political group leaders for investigating and expressing concern about the abuses.

Killings of unarmed civilians in the armed conflict between members of the Hema and Lendu ethnic groups continue in the Ugandan-created Kibali-Ituri province, previously part of Oriental province. Political armed groups and their allies have frequently clashed over leadership of the region, which is rich in minerals and timber. These groups are responsible for massacres, summary executions, rape, torture and other forms of cruel, inhuman and degrading treatment. They have targeted human rights defenders and carried out abduction and massive recruitment of child soldiers. Ugandan government troops support rival armed factions and also participate in extrajudicial executions and other human rights violations. As many as 50,000 people are reported to have been killed since June 1999, and around 500,000 have been forcibly displaced, often with no access to humanitarian assistance. In November 2002, staff from humanitarian NGOs were arrested and briefly detained by the armed groups in Bunia.

### **Human rights violations in the region controlled by the RCD**

In the region controlled by the RCD-Goma,<sup>66</sup> human rights abuses are widespread and include unlawful killings of unarmed civilians, arbitrary arrest, unlawful detention and torture, including rape. These abuses are often committed in response to attacks by armed groups opposed to the RCD-Goma, including Rwandese and Burundian Hutu-dominated armed political groups and the *Mayi-Mayi* militia.

Over a 10-week period from 10 February 2002, a local human rights network reported more than 500 killings, over 100 rape cases and several abductions, as well as destruction of villages by fire and looting in the Kivu region under RCD-Goma occupation. Amnesty

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<sup>65</sup> Kinshasa Penitentiary and Reeducation Centre

<sup>66</sup> *Rassemblement Congolais pour la Démocratie*, Rally for Congolese Democracy



International is also concerned that in the South-Kivu province, long-standing tensions between Congolese Tutsi known as Banyamulenge and Rwandese government and allied Congolese forces have degenerated into a serious armed conflict in the *hauts plateaux* near Uvira. Large numbers of Banyamulenge civilians were killed in the fighting and tens of thousands were either internally displaced or forced to flee to neighbouring Burundi.

Congolese refugees belonging to the Banyamulenge community have also been arrested in the Burundian capital, Bujumbura, by the Burundi authorities, and in Uvira (DRC) by members of the RCD-Goma and transferred to different detention centers in Burundi, and the DRC. During their transfer into custody some of them were badly beaten and tortured.

In June 2000, some 1,200 people were killed by Rwandese and Ugandan troops and their RCD allies in Kisangani, northeastern DRC, and again in mid-May 2002, over 200 people were killed in the same city, reportedly by members of the RPA and combatants loyal to the RCD-Goma. The abuses occurred in the aftermath of a brief mutiny by soldiers opposed to RCD-Goma's refusal to become party to a power-sharing agreement between the DRC government and the *Mouvement pour la Libération du Congo*<sup>67</sup> (MLC).

In June 2002, the Security Council drew the attention of the High Commissioner for Human Rights to the massacres in Kisangani, which led to the Special Rapporteur on extrajudicial, summary or arbitrary executions undertaking a fact-finding mission to the DRC in June 2002.<sup>68</sup> In her report, the Special Rapporteur describes the situation in Kisangani as "still explosive" and emphasizes the urgent need for the government to tackle the issue of impunity which, she states "is virtually guaranteed to those in positions of authority, even when they commit such serious human rights violations as massacres in broad daylight".

### **Violations against women and girls**

Rape and other forms of sexual violence against girls and women have been used systematically as a weapon of war in the on-going armed conflict. Thousands of girls and women have been raped and forced into sexual slavery by combatants. The consequences for the victims are often rejection by their families or communities and infection by HIV/AIDS. The Committee on the Elimination of Discrimination against Women, following its review in 2000 of the DRC's periodic report, expressed its grave concern at "reports of women who were raped, assaulted or severely tortured during the war".<sup>69</sup>

### **Child soldiers**

All parties to the conflict continue to recruit and use child soldiers, although demobilization programs are supposed to be in place in both government and opposition held areas. However, the on-going conflict, as well as generalized poverty, degradation of basic socio-economic infra-structure, leads often to re-recruitment. In its concluding observations, in June 2001, the

<sup>67</sup> Movement for the Liberation of Congo

<sup>68</sup> E/CN.4/2003/3/Add.3

<sup>69</sup> Paragraph 217, A/55/38

Committee on the Rights of the Child expressed its deep concern “at the direct and indirect impact of the armed conflict on almost all children” in the DRC, including “the deliberate killing of children by armed forces of [the DRC], armed forces of other [states] involved in the conflict and by other armed groups”. The Committee further expressed concern at “the recruitment and use of children as soldiers by [the DRC] and by other actors in the armed conflict, including children under 15.”<sup>70</sup> The Special Rapporteur on the DRC recommended in her report to the 57<sup>th</sup> session of the General Assembly that “all child soldiers must be demobilized and reintegrated in society”.<sup>71</sup>

**Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution expressing concern at the continuing human rights crisis in the DRC;
- Support the establishment of an international commission of inquiry into allegations of grave abuses of human rights and international humanitarian law in the context of the conflict in the DRC, and to report back to the 60<sup>th</sup> session of the Commission in 2004;
- Call on all parties to the conflict in the DRC to instruct their combatants to end all human rights abuses and to adhere to international human rights and humanitarian law;
- Call on all governments involved in the conflict to ensure prompt and impartial investigations into all allegations of human rights violations and that those found responsible are brought to justice in accordance with international standards for fair trial;
- Call on all parties not to recruit anyone under the age of 18 into their armed forces, and to demobilize anyone who was under the age of 18 at the time of their recruitment;
- Emphasize that human rights must have a central role in the United Nations Organization Mission in the DRC (MONUC) and to strengthen the cooperation between MONUC and the Human Rights Field Office of the OHCHR in the area of humanitarian and human rights monitoring in accordance with the agreed terms of reference
- Urge the government to re-introduce a moratorium on the death penalty with a view to its complete abolition;

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<sup>70</sup> Paragraph 64, CRC/C/15/Add.153

<sup>71</sup> Paragraph 80, A/57/437

- Call on the government to ensure respect of the rights of women, including as specified in Commission Resolution 2002/52 “to promote and protect the human rights of women and [to] exercise due diligence to prevent, investigate and punish acts of all forms of violence against women”, and in situations of armed conflict, as emphasized by Security Council's Resolution 1325 to “take special measures to protect women and children from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict”;
- Call on the government to issue a standing invitation to the thematic mechanisms of the Commission to visit the DRC, to facilitate the joint mission to the DRC by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on enforced or involuntary disappearances, and to assist the work of the Special Rapporteur on the DRC, including by responding promptly and in full to her communications;
- Urge the government to cooperate fully with the treaty monitoring bodies, including by submitting those periodic reports that are overdue, to promptly implement the recommendations by the relevant treaty bodies and by the thematic mechanisms of the Commission, and to monitor implementation of these recommendations;
- Renew the mandate of the Special Rapporteur on the DRC and ensure the provision of adequate financial support to enable her to undertake her work effectively and make her reports widely available;
- Ensure adequate resources for the Human Rights field office in the DRC to enable it to carry out its work effectively;

## **Israel and the Occupied Territories**

The human rights crisis in the context of the Palestinian uprising (known as the *al-Aqsa intifada*) against Israeli occupation, has continued to worsen. From 29 September 2000 to mid-December 2002, some 1,800 Palestinians have been killed by members of the Israeli army, most of them unlawfully, including more than 300 children. In the same period more than 600 Israelis, some 440 of them civilians, including 82 children, have been killed by members of Palestinian armed groups in targeted or indiscriminate attacks. In addition, tens of thousands of Palestinians and Israelis have been injured, many maimed for life.

At the 58<sup>th</sup> session of the Commission the human rights crisis in Israel and the Occupied Territories was discussed extensively in light of the deterioration of the situation during the session. Several resolutions were passed, including one which mandated the UN High Commissioner for Human Rights to lead a visiting mission to the area and report back to the Commission while it was still in session. At the same time the UN Security Council

passed a resolution<sup>72</sup> which, among other things, welcomed the Secretary-General's initiative to develop accurate information regarding the events in Jenin through sending a fact-finding team. The EU, the Council of Europe's Parliamentary Assembly, the League of Arab States and several governments expressed concern at the grave deterioration of the situation and called for initiatives to restore peace and security.

Amnesty International's call for international human rights monitors to be urgently deployed was widely supported by both NGOs and governments. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 stated that "[t]he need for an international presence, either in the form of monitors or peacekeepers is surely imperative to reduce violence, restore respect for human rights and create conditions in which negotiations can be resumed".<sup>73</sup>

However, neither the delegation headed by the UN High Commissioner for Human Rights nor the fact-finding team established by the UN Secretary-General could travel to the area due to Israel's refusal to facilitate their visits.<sup>74</sup> Israel also continues to oppose the deployment of international monitors and has increasingly targeted human rights and humanitarian workers and activists, including by imposing restrictions on their movements and activities and expelling or refusing them access to the country.<sup>75</sup>

### **Killings**

The Israeli Defence Force (IDF) has continued to routinely use F16 fighter jets, helicopter gunships and tanks to bomb and shell densely populated Palestinian areas. Contrary to claims by the IDF and the Israeli government that IDF members only open fire in situations of imminent danger to their lives and only against identified sources of Palestinian fire, members of the IDF have fired high calibre live ammunitions, shells and missiles into densely populated civilian areas and at unarmed Palestinians, including in their homes, who posed no threat to IDF members or to others. Such practices have been witnessed and documented by Amnesty International delegates, UN workers, representative of local and international NGOs, and journalists.

Palestinian armed groups, for their part, have also increased their attacks on Israeli civilians. In the past year, most of the Israeli civilian victims have been killed in deliberate and indiscriminate attacks, including suicide bombings on buses, in restaurants, shopping malls or streets. Groups who have claimed responsibility for such attacks include *Izz-al-Din al-Qassam* Brigades, the military wing of *Hamas*, *Islamic Jihad*, the *al-Aqsa* Martyrs Brigades, an offshoot of *Fatah*, and the Popular Front for the Liberation of Palestine (PFLP).

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<sup>72</sup> Security Council Resolution 1405 of 19 April 2002

<sup>73</sup> E/CN.4/2002/32, dated 6 March 2002.

<sup>74</sup> The fact-finding team established by the Secretary-General was disbanded by the Secretary-General on 3 May 2002.

<sup>75</sup> See for example the statement (of 3 December 2002) by 64 international staff members of UN agencies based in Israel and the Occupied Palestinian Territories.

**Extrajudicial executions and targeted assassinations**

Some 100 Palestinians have been deliberately targeted in extrajudicial executions; scores of bystanders, including dozens of children, have also been killed in such attacks, often carried out in a manner that made it virtually impossible not to kill bystanders. Initially the IDF claimed that they assassinated wanted Palestinians who lived in areas under the jurisdiction of the Palestinian Authority, out of the IDF reach. However, since the IDF retook control of most of those areas in early 2002 they have continued, and in fact increased, the practice of extrajudicial executions.

Assassinations of Palestinians by the IDF have contributed to aggravating the cycle of unlawful killings. Palestinian armed groups have routinely responded to assassination with suicide bombings and other deliberate attacks against Israeli civilians. Palestinian armed groups have also killed scores of Palestinians suspected of having assisted the Israeli army and intelligence to assassinate wanted Palestinians.

**Killings of children**

In the period from 29 September 2000 to mid-December 2002 more than 300 Palestinian children and 82 Israeli children were killed.<sup>76</sup> In addition, thousands of Palestinian children and hundreds of Israeli children have been injured, many of whom have been left maimed or paralyzed.

The majority of Palestinian children have been killed in the Occupied Territories when members of the IDF have responded to demonstrations and stone-throwing incidents with excessive use of force, and as a result of the IDF's reckless shooting, shelling and aerial bombardments of residential areas. Others have been killed as bystanders during Israel's extrajudicial execution of Palestinians, or when their homes were destroyed. Others still, including new-born babies, died after their access to medical care was denied or impeded by the IDF.

The Israeli children have been killed in direct and indiscriminate attacks, including suicide bombings, and shootings by members of Palestinian armed groups, both inside Israel, in settlements or on roads leading to settlements in the Occupied Territories.

In its concluding observations in October 2002, the Committee on the Rights of the Child strongly urged Israel and all relevant non-state actors to "investigate immediately and effectively all killings of children and bring the perpetrators to justice" and "take all necessary measures to provide child victims of these human rights violations with adequate compensation, recovery and social reintegration".<sup>77</sup>

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<sup>76</sup> Amnesty International uses the term "child" for anyone under the age of 18. This definition is consistent with the UN Convention on the Rights of the Child and other international standards.

<sup>77</sup> Paragraphs 32 (c) and (d), CRC/C/15/Add. 195

### **Impunity**

The Israeli authorities, Palestinian armed groups, and the Palestinian Authority have systematically failed to comply with the obligations and safeguards set down in international human rights and humanitarian law and standards.<sup>78</sup> Since the outbreak of the current *intifada* the problem of impunity has become further entrenched.

In October 2002, in response to Amnesty International's report on the killing of children<sup>79</sup>, Israeli Minister of Justice Meir Shetrit publicly stated that all killings of children would be investigated. However, in spite of such commitments, few judicial investigations are known to have been carried out and only a few soldiers are known to have been brought to trial. In the rare known cases of prosecution of soldiers only light sentences were imposed. Israel's failure to prosecute those responsible for killings and other grave violations contradicts Israel's obligations under international human rights treaties which include articles which cannot be derogated from, even "in time of public emergency which threatens the life of the nation".<sup>80</sup>

For its part, the Palestinian Authority has consistently failed to take the necessary steps to arrest and bring to justice those responsible for killing Israeli civilians. They have repeatedly claimed that the operational capacity of their security forces has been greatly impaired by the IDF's systematic bombing and destruction of their security installations and prisons, the targeting of their security forces, and the restrictions imposed on their movements.

### **Destruction of houses and agricultural land**

Since the beginning of the *intifada*, the IDF has destroyed more than 3,000 Palestinian homes in the Occupied Territories, as well as large areas of agricultural land, public and private properties, and water and electricity infrastructure in urban and rural areas. Thousands of Palestinians, many of them children, have been made homeless. At times the IDF has demolished houses on top of the inhabitants and left them to die under the rubble. In most cases no warning was given to the inhabitants, who had to flee their homes within minutes, often at night and without being allowed to salvage any of their belongings.

Hundreds of houses and large areas of cultivated land in the Occupied Territories have been destroyed in the vicinity of Israeli settlements or along roads used exclusively by

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<sup>78</sup> Though disputed by Israel, the Fourth Geneva Convention applies to the Occupied Territories (the West Bank, including East Jerusalem and the Gaza Strip). Israel has an obligation to protect human rights, including the right to life, under the terms of UN human rights treaties which it has ratified, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. Other human rights standards that are particularly relevant for security forces are the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>79</sup> Israel/Occupied Territories/Palestinian Authority: Killing the Future - Children in the line of fire (AI Index: MDE 02/005/2002).

<sup>80</sup> Article 4(1) of the International Covenant on Civil and Political Rights. The non-derogable articles include the right to life and the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, among others.

Israeli settlers. Others, including an entire quarter of the Jenin refugee camp, were destroyed during IDF incursions.<sup>81</sup>

In 2002 the IDF blew up scores of houses belonging to the families of Palestinians known or suspected of involvement in attacks against Israelis;<sup>82</sup> often nearby houses have also been destroyed by the explosions. Israeli authorities have stated that this measure is intended to deter other potential attackers.

Many other houses, mostly in East Jerusalem and surrounding areas, have been destroyed as part of a discriminatory planning policy which prohibits the building of Palestinian houses while freely allowing and encouraging the construction of Israeli settlements on confiscated Palestinian land.

In June 2002 the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living called for “a moratorium on land confiscations and house demolitions for any purpose, and the cancellation of all existing demolition orders”.<sup>83</sup>

In November 2001 the Committee against Torture had called on the Israeli government to desist from the policy of house demolition and noted that such policy “may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment”.<sup>84</sup>

In 2002 large areas of agricultural land have also been destroyed by the IDF in the West Bank to make way for a wall/fence which is being built to the East of the Green Line, inside the West Bank, destroying and cutting off large areas land from local farmers, for whom land is their main or sole means of subsistence.

### **Closures and curfews**

In 2002 extensive and prolonged closures and curfews have been imposed on an unprecedented scale inside the Occupied Territories. Most Palestinian towns and villages have been cut off from each other and from surrounding villages for most of the year, and prolonged curfews have been imposed on the major population centres. These prolonged, sweeping measures of collective punishment affect millions of Palestinians, whose access to work, school and medical care has been denied or severely restricted.

The closures and curfews which prevent or curtail the freedom of movement of more than three million Palestinians within the Occupied Territories do not affect the Israeli settlers

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<sup>81</sup> According to UNRWA, 2,629 Palestinian homes, housing 13,145 refugees, sustained serious damage during the period 29 March-23 April 2002. Most of the destruction in Jenin refugee camp took place after armed clashes had ended.

<sup>82</sup> This type of collective punishment had been used extensively in previous decades but had been discontinued in the mid-1990s.

<sup>83</sup> Page 21, E/CN.4/2003/5/Add.1, 10 June 2002.

<sup>84</sup> Paragraph 6(j), CAT/C/XXVII/Concl.5.

who live in the West Bank and Gaza in violation of international law.<sup>85</sup> As a result of the rapid expansion in recent years of Israeli settlements throughout the Occupied Territories Palestinian cities and villages are cut off from each another.<sup>86</sup> This has multiplied the points of friction between Israeli settlers and the Palestinian population and the Israeli army has responded by imposing increasingly extensive closures and curfews on the Palestinian population, effectively confining them to a form of town or house arrest for prolonged periods of time.

As a result of closures and curfews, tens of thousands of Palestinians have lost their jobs and the Palestinian economy has collapsed. The rate of unemployment has spiralled and about half of the Palestinian population is currently living under the poverty line.

### **Arrests, ill-treatment, administrative detention and prisoners of conscience**

Tens of thousands of Palestinians, hundreds of them children, have been detained in mass arrests and often subjected to ill-treatment. Most have been released without charge and often without having been questioned. In 2002 the number of administrative detainees increased from about 30 to around 1,000. No criminal charges are filed against them. Administrative detention orders of up to six months are renewable indefinitely. Detainees are held on the basis of "secret evidence" which the Israeli military authorities claim cannot be revealed so as not to compromise the source. Hence the detainees and their lawyers cannot effectively challenge the reasons for the detention.

In its conclusions in 1998 the Committee against Torture stated that A[t]he practice of Administrative Detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16".<sup>87</sup>

In 1994 the Working Group on Arbitrary Detention stated that "individual liberty cannot be sacrificed for the government's inability either to collect evidence or to present it in an appropriate form".<sup>88</sup>

### **Israeli Conscientious objectors imprisoned as prisoners of conscience**

Since September 2000, some 180 Israeli conscripts and reservists have been imprisoned for up to six months for refusing to perform military service or to serve in the Occupied Territories, on the grounds that they believe they would be participating in human rights violations. Amnesty International considers them to be prisoners of conscience.

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<sup>85</sup> Article 49 of the Fourth Geneva Convention prohibits the Occupying Power from transferring its own civilian population into the territory it occupies.

<sup>86</sup> Paragraph 9 of the report of the Special Rapporteur on Israel and the Occupied Territories of September 2002, E/CN.4/2002/32.

<sup>87</sup> Paragraphs 6(e) and 7(b), CAT/C/XXVII/Concl.5.

<sup>88</sup> Decision No. 16, E/CN.4/1995/31/Add.2, Para 11, 18 November 1994.



**Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution condemning the grave violations of international human rights and humanitarian law in Israel and the Occupied Territories;
- Support the urgent deployment of international observers to monitor, investigate and report on the human rights situation;
- Urge the Israeli government to end unlawful killings, including by taking effective measures to ensure that its armed forces do not bomb, shell and shoot indiscriminately into residential areas and at unarmed Palestinians; and ensure effective supervision of measures taken by the Israeli authorities to do so;
- Urge the Palestinian Authority to take measures to prevent Palestinian armed groups based in the areas under its jurisdiction from carrying out attacks against Israeli civilians, and ensure effective supervision of such measures;
- Urge the Israeli government and the Palestinian Authority to take measures to ensure that prompt and impartial investigations are carried out into all killings and that those responsible are brought to justice in trials which meet international standards of fairness, and ensure effective supervision of such measures;
- Urge the Israeli government to put an immediate end to the unlawful destruction of Palestinian houses, land and other properties in the Occupied Territories and to compensate those whose properties have been destroyed;
- Urge the Israeli government to put an end to the extensive, prolonged and punitive closures and curfews imposed on Palestinians within the Occupied Territories;
- Urge the Israeli government to release all administrative detainees unless they are promptly charged with a recognizable criminal offence and tried within a reasonable time in accordance with international standards;
- Urge the Israeli government to immediately and unconditionally release all detained conscripts and reservists who are prisoners of conscience and who are refusing to serve in the army on grounds of their conscientiously held beliefs;
- Urge the Israeli government to ensure that all UN and other human rights and humanitarian workers present in Israel and the Occupied Territories are allowed to carry out their tasks safely and without restrictions;
- Urge the Israeli government to issue a standing invitation to all the thematic mechanisms of the Commission to visit Israel and the Occupied Territories;

- Encourage the Special Rapporteurs on extrajudicial, summary or arbitrary executions; on torture; on violence against women; on religious intolerance; on contemporary forms of racism; and on adequate housing; the Representative of the Secretary-General on internally displaced people; and the Working Group on arbitrary detention to undertake visits to Israel and the Occupied Territories.

## Nepal

The breakdown of peace talks and the deployment of the army in November 2001 marked a new phase in the armed conflict between the Communist Party of Nepal (CPN) (Maoist) and the security forces which began in 1996. The government declared the CPN (Maoist) a “terrorist” organization and gave the security forces wide powers under new “anti-terrorism” legislation.<sup>89</sup> A state of emergency was declared<sup>90</sup> and the police and the paramilitary Armed Police Force (APF) were brought under the army’s operational command.

Since then, the people of Nepal have experienced unprecedented levels of political violence. By the end of October 2002, according to figures made public by the Ministry of Home Affairs and the Royal Nepal Army, the number of people killed in the conflict since November 2001 had reached 4,366. Amnesty International believes that at least half of these killings may have been unlawful. The vast majority of the victims were civilians targeted for their real or perceived support to the CPN (Maoist); others were Maoists deliberately killed after they were taken prisoner or killed instead of being arrested. In addition, torture is widespread and at least 66 people are reported to have “disappeared” since November 2001 after they were seen being taken into custody by the security forces. The total number of “disappearances” reported to Amnesty International in the context of the “people’s war” is over 200.

Human rights abuses by the Maoists have included deliberate killings of an estimated 800 civilians considered “enemies of the revolution”, hostage-taking for ransom, torture of people taken captive and deliberate killings of members of the security forces after they were taken captive.

The international community has not responded adequately to the impending human rights crisis in Nepal, despite the following statement by the UN Secretary-General in his report to the 57<sup>th</sup> session of the UN General Assembly: “I am increasingly concerned by the escalation of violence between the government and the armed insurgency. If requested, I

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<sup>89</sup> The Terrorist and Disruptive Activities (Control and Punishment) Act (TADA) was passed by Parliament in April 2002 for a two-year period.

<sup>90</sup> The state of emergency was in force from 26 November 2001 to 28 August 2002 and has not been renewed. During this period, several fundamental rights guaranteed in the Constitution were suspended, including, among others, the right to freedom of expression, association and movement and the right not to be held in preventive detention without sufficient ground.

would positively consider the use of my good offices to help achieve a peaceful solution.”<sup>91</sup> Amnesty International is pleased to note that on 10 December 2002, the Resident Representative of UNDP in Nepal presented a “multi-faceted strategy for peace building in Nepal”, emphasizing five priorities for a resolution to the crisis, including human rights.

### **CPN Maoist abuses**

The “people’s war” aimed at establishing a “new democracy”<sup>92</sup> was declared by the CPN (Maoist) on 13 February 1996, and since then the Maoists have gained control over large areas of the countryside, especially in the Mid-Western region. Fighting has further escalated after the state of emergency was declared, with heavy casualties reported among army and police personnel.

Deliberate killings of civilians considered to be “enemies of the revolution” has been a prominent feature of the “people’s war”. Teachers and politicians have been among those most frequently targeted. In July 2002 the Maoists stepped up attacks on members of mainstream political parties after elections were announced for November 2002.

Recruitment of children by the Maoists has been reported on a regular basis.<sup>93</sup> Amnesty International was informed that in the areas under its control, the CPN (Maoist) exercise a recruitment policy of “one family, one member”. Children, including girls, are deployed in combat situations, often to help provide ammunition or assist with evacuating or caring for the wounded.

### **Unlawful killings**

The Commander of the Armed Services told Amnesty International in September 2002 that it is the army’s mission to “disarm and defeat” the Maoists. According to army commanders interviewed by Amnesty International a “Maoist” is anyone who gives shelter, food or money to the armed Maoists. The fact that much of this “assistance” may be given under threat from the Maoists was not fully recognized.

Killings of Maoists in “encounters” with the security forces are reported on a daily basis compared to very few reports of Maoists being injured or arrested, which suggests that at least some units of the security forces have adopted a policy of deliberately killing suspects rather arresting them. Many of the victims are civilians, including women and children, deliberately killed on suspicion of providing food, shelter or financial assistance to the Maoists.

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<sup>91</sup> Paragraph 25, A/57/1.

<sup>92</sup> According to a statement issued by the CPN (Maoist) in February 1996 the “people’s war” constitutes a “historical revolt against feudalism, imperialism and so-called reformists”.

<sup>93</sup> Nepal has signed to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Although currently only a signatory to the Optional Protocol, the state is required not do anything which would conflict with the object and purpose of the Convention. The Optional Protocol also requires that “armed groups distinct from the armed forces should not under any circumstances recruit or use in hostilities persons under the age of 18 years”.

The Special Rapporteur on extrajudicial, summary and arbitrary executions noted in her report to the 57<sup>th</sup> session of the Commission following her mission to Nepal in February 2000 that there was “an urgent need to put in place strong, independent and credible mechanisms to investigate and prosecute alleged human rights abuses, including extrajudicial executions and disappearances”.<sup>94</sup>

### **“Disappearances”**

A disturbing pattern has emerged of “disappearances” and long-term unacknowledged detention in the context of the “people’s war”. Between 1998 and mid-2001 Amnesty International recorded more than 130 “disappearances”, and during the state of emergency from November 2001 to August 2002, Amnesty International recorded a further 66 cases of “disappearances”. Many of those recently reported as “disappeared” may still be alive in army custody. Others are feared to have been killed in custody and their bodies disposed of in secret. Among those reported “disappeared” since November 2001, eight of the “disappeared” are women and six are children.

In its report to the 58<sup>th</sup> session of the Commission, the Working Group on enforced or involuntary disappearances stated that it was “deeply concerned that disappearances have continued at such alarming numbers in 2001”.<sup>95</sup> According to the report of the Working Group it clarified a total of 21 cases while 87 cases were still outstanding.

### **Torture and death in custody**

Torture by the army, APF and police is reported almost daily. The army is reported to hold people blindfolded and handcuffed for days, weeks or even months. Torture methods used include rape, *falanga* (beatings on the soles of the feet), electric shocks, *belana* (rolling a weighted stick along the prisoner’s thighs causing muscle damage), beating with iron rods covered in plastic and mock executions.

Amnesty International has documented several cases of torture, including rape, in custody. In early November 2002, it submitted 57 such reports to the heads of the security forces urging for them to be investigated and for Amnesty International to be informed of the outcome. In mid-December 2002, these cases were also submitted to UN Special Rapporteur on torture.

### **Arbitrary arrest and detention**

According to official figures released in August 2002, 9,900 “Maoists” had been arrested, of whom 1,722 remain in custody.

Most arrests and initial periods of detention take place outside any legal framework, especially when suspects are held in army custody. The army denies holding detainees beyond

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<sup>94</sup> Paragraph 60, E/CN.4/2001/9/Add.2.

<sup>95</sup> E/CN.4/2002/79

the legally permitted period of 24 hours specified in the Army Act. However, there is overwhelming evidence of people being held incommunicado in army barracks for extended periods of time.

Those who are transferred to police custody or prison are given a detention order under the TADA or, exceptionally, are charged under other legislation such as the Arms and Ammunition Act. Under Section 9 and 12 of the TADA respectively, people can be held in preventive detention for up to 90 days and in detention for the purpose of investigation for 60 days. However, at the time of writing, hundreds of suspected Maoists have spent more than one year in detention without being taken to court.

### **Impunity**

In Amnesty International's view, impunity for human rights violations is the single most destructive factor affecting the human rights situation. Members of the security forces feel entirely shielded from outside scrutiny for their actions. The heaviest sanction they face is an internal inquiry.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions expressed her concern that "measures taken by the authorities to investigate and prosecute police officers accused of human rights abuses remain seriously wanting, and that the mechanisms and avenues of redress open to victims and their families are weak and inadequate. In this way, the criminal legal system extends impunity for serious human rights violations, including extrajudicial, summary or arbitrary executions, which in turn perpetuates the vicious circle of violence. The Government needs to take prompt and effective action to curb this emerging trend."<sup>96</sup>

Internal police or army investigations into complaints of human rights violations lack credibility. Under pressure from the international community, the army set up a Human Rights Cell in July 2002. When Amnesty International met with the Commander of the Armed Services in September 2002, the Human Rights Cell had investigated between six and ten cases. However no courts martial or criminal trials had been initiated.

Especially since November 2001, the courts in Nepal have failed to uphold human rights protection enshrined in the Constitution. This is most clearly illustrated by the way in which the remedy of *habeas corpus* remains largely ineffective, not only in relation to "disappearances" but for those detained under the TADA. Furthermore, there is no crime of perjury in Nepali law; rather the law specifies that "no one can be punished for any statement made in court".

### **Cooperation with the international community**

Despite being a party to the main human rights treaties, Nepal has so far largely escaped scrutiny by the UN. It has not issued a standing invitation to the thematic mechanisms of the

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<sup>96</sup> Paragraph 59, E/CN.4/2001/9/Add.2, paragraph 59.

Commission and has been negligent in its reporting duties to the treaty bodies.<sup>97</sup> For instance, when Nepal appeared for the first time before the Committee against Torture in April 1994, its initial report was described by the Committee as “scant on detail” and recommended that a supplementary report be submitted within 12 months.<sup>98</sup> To Amnesty International’s knowledge, no such report was ever submitted.

**Amnesty International calls on the Commission on Human Rights to:**

- Adopt a resolution expressing grave concern at the deepening human rights crisis in Nepal;
- Call on both parties to the conflict in Nepal to uphold human rights and humanitarian standards as a confidence-building step towards peace talks;
- Call on the UN Secretary-General to step up efforts to ensure respect for human rights is part of the international community’s integrated approach to address the crisis in Nepal;
- Support the establishment of an office in Nepal of the OHCHR, to monitor respect for international human rights and humanitarian law and to build the capacity of the judiciary, National Human Rights Commission and other relevant institutions to combat impunity;
- Appoint a Special Rapporteur for Nepal as a complementary measure to support the proposed office of the OHCHR;
- Urge the government to take urgent steps to end impunity for human rights violations by undertaking prompt and impartial investigations into all allegations of human rights violations, ensuring that those found responsible stand trial in accordance with international standards for fair trial, and providing compensation to the victims;
- Call on the government to ensure respect of the rights of women/women's human rights, including as specified in Commission Resolution 2002/52 "to promote and protect the human rights of women and [to] exercise due diligence to prevent, investigate and punish acts of all forms of violence against women", and in situations of armed conflict, as emphasized by Security Council's Resolution 1325 to “take special measures to protect women and children from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict”;

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<sup>97</sup> Periodic reports are outstanding to the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination on Racial Discrimination, and the Committee on the Rights of the Child.

<sup>98</sup> Paragraphs 139 and 145, A/49/44

- Urge the CPN (Maoist) to uphold minimum humanitarian standards applicable to the situation in Nepal, including those contained in Article 3 common to the four Geneva Conventions of 1949;
- Urge the CPN (Maoist) not to recruit anyone under the age of 18 into their armed forces, and to demobilize anyone who was under the age of 18 at the time of their recruitment;
- Urge the government to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts;
- Urge the government to cooperate fully with the treaty monitoring bodies, including by submitting those periodic reports that are overdue, to promptly implement the recommendations by the relevant treaty bodies and by the thematic mechanisms of the Commission, and to monitor implementation of these recommendations;
- Encourage the government to issue a standing invitation to the thematic mechanisms of the Commission to visit Nepal. In particular, the government should be encouraged to invite the Special Rapporteurs on extrajudicial, summary or arbitrary executions, and on torture, and the Working Group on Arbitrary Detention.

## **Russian Federation**

At the 58<sup>th</sup> session of the Commission on Human Rights a resolution condemning the grave abuses of international human rights and humanitarian law in Chechnya was narrowly defeated.<sup>99</sup> Amnesty International deplored the failure of the Commission to hold Russia's human rights record in Chechnya to account, and continues to be seriously concerned at the human rights situation in the Chechen Republic and elsewhere in the Russian Federation.

### **Impunity for human rights violations**

Impunity continues to be a main underlying factor in the persistence of human rights violations across the Russian Federation. The failure of the authorities to ensure effective measures are taken to thoroughly investigate allegations of human rights violations and to bring to justice those responsible has created a climate of impunity in which perpetrators believe they can act without being held to account for their actions.

Torture and ill-treatment are frequent in the administration of criminal justice, but such violations rarely result in convictions of those responsible. Even when criminal investigations are initiated, they are frequently closed due to lack of evidence. Victims who continue to seek justice often spend years going through seemingly endless rounds of

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<sup>99</sup> The draft resolution, tabled by Spain on behalf of the EU, was rejected 15-16-22.

investigations, closures and appeals. The rare conviction of torturers usually results in sentences that are not commensurate with the gravity of the crime.

Failure to bring to justice those responsible for committing human rights abuses was also raised by both the Committee against Torture<sup>100</sup> and the Committee on the Elimination of Discrimination against Women<sup>101</sup> which considered reports of the Russian Federation during 2002. Both called on the government to take action to combat impunity.

In addition, the UN Special Rapporteur on violence against women reported in 2001 that “despite strong evidence of rape and other sexual violence committed by Russian federal forces in Chechnya, the Government of the Russian Federation has failed to conduct the necessary investigations or to hold anyone accountable for the vast majority of cases.”<sup>102</sup>

### **Human rights violations in Chechnya**

The human rights situation in Chechnya has failed to improve over the past year and in some respects has further deteriorated following the Moscow theatre hostage crisis in October 2002. Members of the Russian security forces continue to commit serious violations of human rights in Chechnya, but are almost never prosecuted. In other parts of the Russian Federation, Chechens have been subjected to discrimination, harassment and arbitrary detention, including in the wake of the hostage crisis.

While independent verification of human rights violations in Chechnya itself is gravely hampered by the security situation and lack of cooperation from the Russian authorities, Amnesty International has received reliable and consistent reports of “disappearances”, extrajudicial executions and torture, including rape committed by Russian forces. These violations would be serious breaches of the Geneva Conventions, and constitute war crimes.

Many of the violations have been reported in the context of raids (*zachistki*), purportedly conducted to check personal registration documents, that have continued unabated during more than three years of this conflict. During such raids on villages or neighbourhoods, ostensibly to search for Chechen fighters, Russian security forces have allegedly subjected the civilian population to beatings, arbitrary detention, “disappearance” and extrajudicial executions. Despite the introduction of measures by the Russian authorities, such as Order No 80 and Decree No 46<sup>103</sup> both of which are aimed at protecting civilians, the

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<sup>100</sup> CAT/C/CR/28/4

<sup>101</sup> CEDAW/C/2002/1/CRP.3/Add.3

<sup>102</sup> Paragraph 103, E/CN.4/2001/73

<sup>103</sup> Order No. 80, introduced in March 2002, requires investigations and prosecutions in connection with incidents of pillage and prohibits the security forces from wearing masks and concealing the identity of their units. The order also requires Interior Ministry forces and police to announce their name, rank and purpose when entering civilian homes. Decree No 46, issued on 25 July 2001 by the General Procurator for the Russian Federation, states that procurators and representatives of local authorities should be present during military raids by Russian forces in Chechnya. These measures, even if fully implemented, are not sufficient to bring about a meaningful increase in the accountability of Russian forces in Chechnya for human rights violations.



violations continue as noted, among others, by bodies and mechanisms of the Council of Europe, and these measures are not consistently implemented.<sup>104</sup>

Chechen forces are also reported to have committed abuses of international humanitarian law. Chechen fighters who have been operating in and around populated areas have reportedly failed to take measures to protect civilians. According to reports, they have targeted civilian members of the pro-Moscow administration in attacks that have resulted in dozens of fatalities and serious injuries, and kidnapped civilians and held them hostage. Chechen forces also claim to have executed captured members of the Russian armed forces. Such abuses can constitute war crimes.

Since the outbreak of the second Chechen armed conflict in 1999, hundreds of thousands of civilians have been forced to flee their homes. At the time of writing, approximately 110,000 Chechens were displaced in Ingushetia, mainly citing security concerns as the reason for not returning to Chechnya. Amnesty International is extremely concerned at reports of involuntary repatriation of thousands of internally displaced persons. In July 2002, the camp at Znamenskoye in northern Chechnya was closed down, and in December 2002, the Aki Yurt camp in Ingushetia was also closed. Many of the internally displaced in these camps were reportedly forced to return. The Russian authorities have threatened to close all camps for the internally displaced by the end of January 2003.

The Moscow theatre hostage crisis triggered a backlash against Chechens. While the government warned against turning all Chechens into scapegoats, the situation on the ground was very different. Many were detained, and some had reportedly had drugs planted on them in order to give the police an excuse to arrest them.

### **Women's rights**

Each year, tens of thousands of women in the Russian Federation become victims of serious human rights abuses by state as well as non-state actors. Women in police custody are known to have been subjected to torture and ill-treatment, including rape, and thousands of women die each year as a result of domestic violence.

In 2002 while reviewing the Russian Federation's fifth periodic report, the Committee on the Elimination of Discrimination against Women stated that it was "deeply concerned by the fact that, despite credible evidence that police officials have used violence against women in custody, the Government has not, as a rule, investigated disciplined or prosecuted offenders."<sup>105</sup>

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<sup>104</sup> See *Recommendation of the Commissioner for Human Rights concerning certain rights that must be guaranteed during the arrest and detention of persons following "cleansing" operations in the Chechen Republic*, CommDH/Rec (2002)1, 30 May 2002; *22<sup>nd</sup> Interim Report of the SG on the presence of Council of Europe experts in the Office of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic*, SG Inf (2002) 39, 22 October 2002, at para 9; *Conflict in the Chechen Republic*, Doc. 9859, 22 September 2002.

<sup>105</sup> Paragraph 38, CEDAW/C/2002/I/CRP.3/Add.3

Thousands of cases of domestic violence are never reported, let alone brought to court. The police are often reluctant to interfere in domestic situations, and women may be equally reluctant to report such cases. Not only is the legislation inadequate, but there is an urgent need for improved practices under existing laws. In 2002, the Committee on the Elimination of Discrimination against Women was extremely disturbed at “the high level of domestic violence against women” and was concerned about “the prevalent tendency, including by law enforcement officials to view such violence not as a crime, but as a private matter between the spouses”.<sup>106</sup>

### **Children’s rights**

Contrary to international law and standards protecting children’s rights, Amnesty International is aware of cases where children detained by Russian police have been denied the most basic rights, including the right to have a lawyer, adult relative or other appropriate adult present during questioning, which among other things serves as a safeguard against torture and ill-treatment. Amnesty International has also documented cases where children have been tortured or ill-treated by police in such circumstances.

As a state party to the Convention on the Rights of the Child, Russia is obliged to ensure that arrest, detention or imprisonment of a child is used only as a measure of last resort and for the shortest appropriate period of time.<sup>107</sup> Despite some recent improvements, tens of thousands of children in the Russian Federation continue to be deprived of their liberty. Many of them languish for months or years in pre-trial detention centres, while others are sentenced to long terms of imprisonment for relatively minor offences.

Following his visit to the Russian Federation in June 2002, the Special Representative of the Secretary-General for children and armed conflict noted that the “combined impact of the two periods of armed conflict in Chechnya have left a very extensive and serious impact on children”, including some 150,000 displaced children in Chechnya and Ingushetia, more than 3,000 children dead in the hostilities, and some 1,600 left as orphans.<sup>108</sup>

On reviewing the second periodic report of the Russian Federation, in September 1999, the Committee on the Rights of the Child encouraged the government “to ensure that children and other civilians are protected during periods of conflict and that support and rehabilitative assistance, including psychological aid, is made available to internally displaced children and children living in regions of armed conflict”.<sup>109</sup>

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<sup>106</sup> Paragraph 36, CEDAW/C/2002/I/CRP.3/Add.3

<sup>107</sup> Convention on the Rights of the Child, Article 37

<sup>108</sup> UN press release, 24 June 2002

<sup>109</sup> Paragraph 57, CRC/C/15/Add.110

### **Racial discrimination**

Ethnic or national minority groups in the Russian Federation are routinely subjected to racial discrimination. Victims of such abuse include students, asylum-seekers and refugees from Africa, but also citizens of the Russian Federation (including ethnic Chechens and Jews), as well as people from the south Caucasus, from South, Southeast and Central Asia, from the Middle East and from Latin America.

As in many other countries, law enforcement agencies in the Russian Federation often reflect rather than challenge discriminatory attitudes in society at large. Amnesty International's research indicates that many racist attacks are not reported to the police because the victims fear further abuses by the police themselves. Racist attacks are often dismissed as the actions of drunken "hooligans" which the police fail to investigate or even register as racially motivated. As a result, victims of racist crimes rarely see justice done and the police and members of the public are left to assume that racism is tolerated.

Some positive measures against racism have been initiated. For example, in 2001 the authorities initiated a five-year State Program on Tolerance and Prevention of Extremism in Russian Society, which envisages a wide-ranging program of reforms under the auspices of the Ministry of Education.

President Vladimir Putin and the Prosecutor General Vladimir Ustinov have recently made public statements that racist offences will not be tolerated and that those responsible will be treated with "the maximum strictness allowed by law."

However, these statements stand in stark contrast to practices in a number of regions in the Russian Federation, where influential people inflame prejudices against members of ethnic minorities for reasons of political expediency.

#### **Amnesty International calls on the Commission on Human rights to:**

- Adopt a resolution condemning the grave human rights situation in Chechnya and elsewhere in the Russian Federation;
- Establish an international commission of inquiry into allegations of grave abuses of human rights and international humanitarian law in the context of the armed conflict in Chechnya, and report back to the 60<sup>th</sup> session of the Commission in 2004;
- Urge the government of the Russian Federation to take urgent steps to end extrajudicial executions, "disappearances", torture and ill-treatment, including rape, in Chechnya, including by ensuring prompt and impartial investigation into all allegations and by bringing those responsible to justice in trials that meet international standards of fairness;

- Urge Chechen armed groups to respect the requirements of international humanitarian law, in particular those protecting civilians and captured combatants;
- Urge the government to stop attempts to forcibly return internally displaced people from Chechnya, and to provide adequate protection and humanitarian assistance to them in accordance with the UN Guiding Principles on Internal Displacement and other relevant international standards;
- Urge the government to ensure that people who have fled the conflict are not returned to Chechnya or other parts of the Russian Federation unless and until their safe and durable return with dignity is assured;
- Urge the government of the Russian Federation to take urgent steps to end torture and ill-treatment, including rape, in the Russian Federation, including by ensuring prompt and impartial investigation into all allegations and by bringing those responsible to justice in trials that meet international standards of fairness;
- Urge the government to ensure full implementation of the Convention on the Elimination of All Forms of Discrimination against Women, timely submission of periodic reports, and full and prompt implementation of the recommendations of the Committee on the Elimination of Discrimination against Women, in particular those relating to violence against women in custody and in armed conflict and to domestic violence;
- Call on the government to ensure that children are deprived of their liberty only as a measure of last resort and for the shortest appropriate time;
- Urge the government to ensure full implementation of the Convention on the Rights of the Child, timely submission of periodic reports and full and prompt implementation of the recommendations of the Committee on the Rights of the Child and to ratify its Optional Protocols on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography;
- Urge the government to ensure prompt and impartial investigations into all allegations of racial discrimination whether by state or non-state actors and that the perpetrators are brought to justice in trials that conform to international standards of fairness;
- Urge the government to ensure full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, timely submission of periodic reports, full and prompt implementation of the recommendations of the Committee on the Elimination of Racial Discrimination, as well as dissemination

throughout the Russian Federation of the conclusions and recommendations of the Committee;

- Call on the government to issue a standing invitation to the special procedures of the Commission to visit the Russian Federation;
- Urge the government to facilitate without further delay visits to the Russian Federation, including Chechnya, by relevant special procedures of the Commission, as called for previously by the Commission, in particular the Special Rapporteurs on torture, on extrajudicial, summary or arbitrary executions, and on violence against women, and the Representative of the Secretary-General on internally displaced persons;
- Call on the OHCHR to ensure that technical assistance programs to the Russian Federation in the area of education include training on international human rights law and standards, particularly at tertiary level.

## **Further background information**

The following documents are available from Amnesty International section offices, the International Secretariat in London, and the AI UN Offices in Geneva and New York. Most of the documents are available on the AI website: [www.amnesty.org](http://www.amnesty.org)

### **General**

- Amnesty International Report 2002 (AI Index: POL 10/001/2002)
- Statements and press releases issued by Amnesty International during the 58<sup>th</sup> session of the UN Commission on Human Rights (AI Index: IOR 41/021/2002)
- The United Nations Thematic Mechanisms 2002 (AI Index: IOR 40/009/2002)

### **Human rights and counter-terrorism**

- Indonesia: Impunity and human rights violations in Papua (AI Index: ASA 21/015/2002)
- Nepal – A spiralling human rights crisis (AI Index: ASA 31/016/2002)
- The Russian Federation - Denial of justice (AI Index: EUR 46/027/2002)
- USA: Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay, 15 April 2002 (AI Index: AMR 51/053/2002)
- USA: Beyond the law, Update to AI's April Memorandum to the US Government on the rights of detainees held in US custody in Guantánamo Bay and other locations (AI Index: AMR 51/184/2002)
- Rights at Risk: Amnesty International's concerns regarding security legislation and law enforcement measures (AI Index: ACT 30/001/2002)]
- People's Republic of China: Serious human rights violations and the crackdown on dissent continue (AI Index: ASA 17/047/2002)
- United Kingdom: Memorandum to the UK Government on Part 4 of the Anti-terrorism, Crime and Security Act 2001 (AI Index: EUR 45/017/2002)
- Pakistan: No protection against targeted killings (ASA 33/030/2002)

### **Human Rights of Refugees and asylum-seekers**

- Afghanistan: Continuing need for Protection and Standards for Return of Afghan Refugees (AI Index: ASA 11/014/2002)
- Australia-Pacific: Offending human dignity – the “Pacific Solution” (AI Index: ASA 12/009/2002)
- Bhutan: Ten years later and still waiting to go home. The case of the refugees (AI Index: ASA 14/001/2002)
- Liberia: Civilians face human rights abuses at home and across the border (AI Index: AFR 34/020/2002)
- Socialist republic of Viet Nam/Kingdom of Cambodia: No sanctuary: The plight of the Montagnard minority (AI Index: ASA 41/011/2002)

### **The death penalty**

- USA: Indecent and internationally illegal – the death penalty against child offenders (AI Index: AMR 51/144/2002)
- Children and the death penalty – Executions worldwide since 1990 (AI Index: ACT 50/007/2002)
- Death Penalty Developments in 2001 (AI Index: ACT 50/001/2002)
- Human Rights vs the Death Penalty: Abolition and Restriction in Law and Practice (AI Index: ACT 50/013/1998)
- Facts and Figures on the Death Penalty (AI Index: ACT 50/004/2002)

### **Colombia**

- Colombia: Human Rights and USA Military Aid to Colombia III, published jointly by Amnesty International, Human Rights Watch and the Washington Office on Latin America (AI Index: AMR 23/030/2002)
- Colombia: Open letter to the President of the Republic of Colombia, Dr. Álvaro Uribe Vélez (AI Index AMR 23/084/2002)
- Colombia: San Vicente del Caguán after the breakdown of the peace talks -- a community abandoned (AI Index: AMR 23/098/2002)
- Open Letter to the Revolutionary Armed Forces of Colombia-People's Army (AI Index: AMR 23/124/2002)
- Colombia: Security at what cost? The government's failure to confront the human rights crisis (AI Index: AMR 23/132/2002)

### **Democratic Republic of the Congo (DRC)**

- Democratic Republic of Congo, From assassination to state murder? (AI Index: AFR 62/023/2002).
- Making a killing - The diamond trade in government-controlled DRC, (AI Index: AFR 62/017/2002).
- DRC: Memorandum to the Inter-Congolese Dialogue: Amnesty International's recommendations for a human rights agenda (AI Index: AFR 62/030/2001)

### **Israel and the Occupied Territories**

- Israel and the Occupied Territories and the Palestinian Authority: Killing the future: Children in the line of fire (AI Index: MDE 02/005/2002)
- Israel and the Occupied Territories: Shielded from scrutiny: IDF violations in Jenin and Nablus (AI Index: MDE 15/143/2002)
- Israel and the Occupied Territories and the Palestinian Authority: Without distinction: Attacks on civilians by Palestinian armed groups (AI Index: MDE 02/003/2002)

### **Nepal**

- Nepal: A deepening human rights crisis, Time for international action (AI Index: ASA 31/072/2002)
- Nepal: A spiralling human rights crisis (AI Index: ASA 31/016/2002)

**Russian Federation**

- The Russian Federation: Denial of Justice (AI Index: EUR 46/027/2002)
- Justice for everybody: Human rights in the Russian Federation (AI Index: EUR 46/023/2002)
- Russian Federation: Failure to protect or punish – human rights violations and impunity in Chechnya (AI Index: EUR 46/004/2002)
- Torture and Ill-treatment – AI report to the UN Committee against Torture. (AI Index EUR 46/015/2002)