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2001 UN COMMISSION ON HUMAN RIGHTS: BRIDGING THE GAP BETWEEN RIGHTS AND REALITIES

I INTRODUCTION

The United Nations Secretary-General addressed the Commission on Human Rights (the Commission) last year saying: "I wish to build on the promise of this age by affirming the place of human rights in the international rule of law and underscoring how we all -- international organizations, Member States and non-governmental organizations -- can do more and do better to bridge the gap between rights and realities. The universal demand for a world of law and of dignity and human rights, or equality and non-discrimination, of peace and of justice -- can no longer be ignored. The question today is how best to bring that about".

The Commission has created excellent tools to assess that gap and narrow it: its special procedures. Special rapporteurs, representatives or experts of working groups visit countries to examine, on the ground, the human rights situation within their specific country or thematic mandate, and make recommendations, and report to the Commission. Such visits enhance the dialogue between governments and the Commission's own human rights experts. Yet too often, country visits requested by these special procedures do not materialize because some states simply fail to respond to special procedures' requests to be invited, notwithstanding long-standing and persistent calls by the Commission itself on states to cooperate with and assist its special procedures.

One simple way in which states can put the Commission's request into practice is for states to issue a standing invitation to all thematic special procedures to visit their country. The effect would be to greatly enhance the efficiency of the whole process, to depoliticize the current process and allow countries and special procedures to focus on substantive issues. Amnesty International therefore welcomes the commitment shown by some countries that already have made this move and urges all states participating in the 57th session of the Commission to extend a standing invitation to the special procedures of the Commission to visit their country at any time.¹

The UN Secretary-General also spoke to the Commission about the increasing recognition that "national constitutional or legal provisions cannot override a State's international legal obligations -- least of all in the area of human rights..." He reminded the Commission of the great human rights instruments which form the basis of its work, as a standard to measure the record of any and every state in meeting its commitments to its citizens.

Yet a few states, who have undertaken binding legal obligations by becoming party to such international human rights treaties, have in recent years taken steps that effectively undermine the UN treaty bodies which monitor the implementation of these instruments. In

¹ As of December 2000, Canada, the Czech Republic, Iceland and Norway had issued such standing invitations.

questioning the binding nature of the obligations undertaken when a state becomes a party to any of the major human rights treaties -- such as for example pertinent obligations on periodic reporting -- the actions of such a state constitute an attack on the human rights protection system as a whole.

At the Millennium Assembly UN member states reaffirmed they would support all efforts to uphold and respect human rights and fundamental freedoms. That commitment should now be put into practice. Amnesty International therefore calls on all states to rededicate themselves to the full and effective implementation of international human rights treaties to which they are parties. This would constitute a positive response to the Secretary-General's report to the Millennium Summit, where he stated that "to strengthen protection, we must reassert the centrality of international humanitarian and human rights law".² Indeed, the UN Millennium Declaration, subsequently adopted by the General Assembly, resolved "to ensure the implementation, by State Parties, of treaties in areas.... of international humanitarian and human rights law".³

Full and effective implementation of these treaties, which states have freely ratified and which are legally binding, means in practice that states parties should periodically report on their implementation in full and not on a selective basis, that they should act in good faith to implement the views and recommendations made by treaty bodies monitoring their implementation, and that they should fully cooperate with and positively respond to these treaty bodies whenever they request visits. Acting in the spirit of the UN Millennium Declaration, which resolved to ensure that the UN should be provided with the resources to carry out its mandates on a timely and predictable basis, states should take all necessary steps to ensure that the treaty bodies get the necessary professional and technical support which they badly need to be effective in helping to address the gap between human rights and realities.

This session of the Commission takes place between the end of the Millennium Summit and the start of the World Conference on Racism, placing the Commission in a good position to recommend specific measures to be adopted by the World Conference. Racial discrimination is a systematic denial of the rights of people simply because of who they are or how they look. It is an assault on one of the most fundamental principles underlying the UN Charter, the UN Declaration on Human Rights and virtually every other major human rights instrument adopted by the UN: namely that human rights belong to everyone and apply to all without distinction. Discrimination on grounds of race dehumanizes the other person and creates a fertile breeding ground for some of the worst inhuman human rights abuses. The prohibition of racial discrimination has the most prominent place in international human rights treaties adopted since 1948, and constitutes a general principle of international law, which all states are legally obliged to protect. Yet discrimination on grounds of race or identity is pervasive and persists in many forms in every country of the world.

² "We the peoples: the role of the United Nations in the 21st century", report of the UN Secretary-General to the General Assembly (A/54/2000).

³ UN Millennium Declaration adopted by the General Assembly, resolution 55/2000.

Amnesty International's work to combat racism has taken place in the broader context of its long-standing efforts to stop people being imprisoned, tortured or killed in violation of international standards. The organization acknowledges that institutionalized racism still persists in many countries, and found racial discrimination notably in administration of justice systems, as manifested by patterns of racially motivated torture and ill-treatment by state officials. For example, many if not most victims of police brutality in Europe and the USA are black, members of ethnic minorities, or non-nationals and allegations of racial ill-treatment are rarely investigated effectively. Torture and ill-treatment of indigenous people, often in the context of disputes over land rights, prevail in countries of South America and in the USA race is an important factor in the discriminatory application of the death penalty. Ethnic origin has played a major role in the torture and killing of numerous unarmed civilians in the course of armed conflicts in African countries. Caste is a defining factor in police abuse in some Asian countries, while in others ethnic minorities continue to face persistent persecution. Migrant workers are victims of discriminatory treatment, involving ill-treatment or torture, particularly in countries in Europe and the Middle East. But torture and ill-treatment by government forces are only part of a broader pattern of violence which people are made to suffer because of racism, xenophobia or ethnic hatred, and which all states have an obligation to halt and prevent.

At the World Conference, governments should not only reaffirm or strengthen their commitment to combat racism, but should also take practical measures to put their legal obligations into practice. The Commission should urge all states that have not done so to ratify, without limiting reservations, the Convention on the Prevention and Punishment of the Crime of Genocide -- which addresses the most extreme form of discrimination on grounds of race as a crime under international law -- and the Convention on the Elimination of All Forms of Racial Discrimination. States that have ratified these treaties with reservations should be urged to remove all limiting reservations. It is imperative that the debate now focusses on the effective implementation of the rights set forth in that Convention. States should therefore also make a declaration under Article 14 of that Convention that they recognize the competence of the Committee on the Elimination of Racial Discrimination to hear complaints from individuals or groups claiming to be victims of violations of the rights set out in the Convention. This is particularly important since only a few states have made such a declaration so far and since the Committee is well placed to make specific recommendations that will help states in their efforts to improve the overall situation of victims of racial discrimination in countries that genuinely wish to improve their record.⁴ As the Committee on the Elimination of Racial Discrimination has often underlined, enacting laws making racial discrimination a criminal offence is only a first step and not enough: it is effective enforcement that matters.

Amnesty International therefore also urges states, on the occasion of the forthcoming World Conference against Racism, to establish national plans of action, with measurable goals, to combat racism especially in the system of administration of justice, including the training of law enforcement officials. In particular, these plans should include the creation,

⁴ Only 33 states out of 156 state parties had, as of 16 November 2000, made such a declaration.

where they do not exist, of independent and impartial human rights bodies with expertise in discrimination on grounds of race or identity, which operate in a visible and accessible way, and which include representatives of the groups that face discrimination on the basis of race or identity. They should have a mandate to monitor and report on implementation of the national plan as well as on cases of racial discrimination and, where appropriate, be able to institute legal proceedings. National courts should ensure that their composition reflects the diversity of the population, including groups notably liable to racial discrimination.

Amnesty International highlights every year countries that deserve the Commission's particular attention because of the gravity or persistence of or deterioration in human rights violations occurring on their territory, or the notable lack of implementation of resolutions adopted by the Commission. This year, Amnesty International draws the special attention of the Commission to the situations in Chechnya / Russian Federation, Colombia, Indonesia, Saudi Arabia and Sierra Leone.

Amnesty International also pays particular concern to the following thematic issues: the death penalty, the draft International Convention on the Protection of All Persons from Enforced Disappearances, and the draft Optional Protocol to the Convention against Torture.

II COUNTRY CONCERNS

COLOMBIA

Colombia's human rights crisis continues to deepen against a background of an increasingly brutal armed conflict. The lack of political will of the government of President Andrés Pastrana - demonstrated by the persistent failure to implement UN and other international organizations' recommendations - has prolonged and exacerbated the crisis.

Despite efforts during the administration of President Pastrana to advance peace talks with the principal armed opposition groups, the armed conflict - characterized by widespread and systematic violations of human rights and grave and persistent breaches of international humanitarian law by all parties to the conflict - continues to escalate and to extend to new areas of the country. In November 2000 the Revolutionary Armed Forces of Colombia, FARC, indefinitely suspended talks with the government raising fears of a break-down in the peace process and a further intensification of the conflict. Amnesty International is concerned that a US- backed military aid program, which includes arms, security equipment and training for the Colombian armed forces and which is due to come into effect in early 2001, could further exacerbate the human rights crisis.

The principal victims of political violence continue to be civilians, particularly those living in rural areas disputed between government forces, their paramilitary allies and armed opposition groups. Human rights defenders and peace activists, indigenous community leaders, trade unionists, political and social activists, judicial officials, academics and journalists are frequent targets of politically motivated killings or "disappearance". During the last ten years over 35,000 people have been killed for political reasons as the conflict has intensified and respect for human rights and international humanitarian law has deteriorated

alarmingly. The mounting ferocity of the predominantly rural conflict has continued to drive thousands of families from their homes: over two million people are estimated to have been internally displaced by the conflict in the last ten years.

Internally displaced communities who have returned to their lands have continued to be subject to attack either by army-backed paramilitary forces or by armed opposition groups. Those groups which returned and declared themselves peace communities, *comunidades de paz*, have been particular targets for attack as none of the parties to the conflict have accepted their right to neutrality.

Alarming numbers of children are victims of serious human rights violations both as a result of the internal armed conflict as well as social intolerance in the form of “social cleansing”⁵. Thousands of children serve in the ranks of armed opposition groups and paramilitary organizations.

Despite repeated government promises to dismantle paramilitary forces, no effective action has been taken to curtail, much less to end, their illegal action which is characterized by widespread atrocities against the civilian population. Frequently, paramilitary forces employ a “scorched earth” strategy, killing community leaders, burning entire villages and displacing the inhabitants. Torture is widespread, particularly in areas most affected by the conflict and as a prelude to murder by paramilitary forces.

Members of the Colombian armed and security forces continue to commit serious human rights violations. Links between sectors of the armed forces and paramilitary forces have not been curtailed, even though repeatedly promised by the Colombian authorities, and have, indeed, been strengthened. In October 2000 over 380 armed forces personnel were dismissed in what was described by authorities as an internal purge. Of these, fewer than 50 were dismissed for human rights related offences and only lower-ranking officers and rank and file soldiers were affected. Senior military officers implicated in serious human rights violations continue in service.

Armed opposition groups are responsible for numerous violations of international humanitarian law including the deliberate and arbitrary killings of civilians and disproportionate and indiscriminate attacks on military targets which have resulted in significant civilian casualties. Consistent reports have been received that following attacks, FARC combatants have summarily executed soldiers and police who were seriously wounded and disarmed, in violation of international humanitarian law. Kidnapping and holding of hostages has become increasingly widespread as ransom money has become one of the principal sources of income for guerrilla groups. Victims of kidnapping include children.

Colombia continues to be one of the most dangerous countries in which to work for the defence and promotion of human rights. Although the government has expanded the protection programs for human rights defenders and other sectors at risk such as trade

⁵ The murder of people designated “socially undesirable” - homosexuals, prostitutes, petty criminals, drug addicts, street children and the mentally disturbed.

unionists and journalists, these measures have proved inadequate to halt the campaign of intimidation and attacks by military and paramilitary forces. Moreover, little effort has been made to identify and bring to justice those responsible.

The Colombian government's human rights policy has been seriously deficient both in terms of providing adequate humanitarian aid to victims of political violence and in fulfilling its commitments to implement UN recommendations including the need to tackle impunity.

In 2000 a law was finally passed outlawing "disappearances", genocide and forced displacement and the Military Penal Code came into effect. Both these laws stipulate that members of the armed and security forces implicated in serious human rights violations should be brought to justice in the civilian courts. However, in violation of the above laws the military justice system continues to challenge the civilian courts exercising jurisdiction in cases that clearly involve credible allegations of human rights violations by security force officers. Military tribunals have a virtually unbroken record of covering up crimes and acquitting high-ranking officers in the face of overwhelming evidence against them.

Colombia's deepening human rights crisis has been the focus of increasing international attention. The UN Commission on Human Rights has adopted consensus statements from the Chairperson on the situation of human rights in Colombia during its last five sessions. The Statement of the Chair of the 56th Session in April 2000 welcomes the renewal of the agreement between the Government of Colombia and the UN High Commissioner for Human Rights extending the mandate of the permanent office in Bogotá until April 2002 but regretted that many of the recommendations formulated by the Office had not been implemented. The Statement condemns the persistent grave violations and abuses perpetrated by paramilitary forces and the armed opposition groups and calls on the Government to ensure that members of state forces allegedly involved in human rights violations or collusion with paramilitary groups are suspended, brought to trial and, if guilty, punished. The Statement also strongly condemns violations of international humanitarian law committed by guerrilla groups. It expresses particular concern about the increase in the number of internally displaced persons, the continuing attacks on human rights defenders, labour union members and journalists and the persistence of impunity, particularly in the military jurisdiction. It urged all parties to reach a comprehensive human rights and humanitarian agreement as a priority.

Amnesty International calls on the Commission to:

- Adopt a resolution reiterating its concern at the deepening human rights and humanitarian crisis in Colombia;
- Reiterate the Commission's concern at the Colombian Government's failure satisfactorily to implement UN recommendations and urge the government to implement them in full, in particular the need to dismantle paramilitary groups and to end impunity;

- Urge the Colombian government and the armed opposition groups to reach without delay a verifiable agreement to respect fundamental human rights and international humanitarian law;
- Reaffirm the importance of the presence of the Office of the High Commissioner for Human Rights, strengthen the office and take the necessary measures to enable the office to effectively fulfil its mandate throughout the country by establishing regional offices;
- Request the High Commissioner to submit her report on Colombia to the Commission on Human Rights and to the General Assembly at its 56th Session;
- Remind governments that they have a responsibility to ensure that arms, security equipment and training which they or those under their jurisdiction supply to Colombia are not used to commit or facilitate human rights abuses. Any agreements to provide arms and security equipment to Colombia should include strict controls and guarantees to safeguard that such assistance is not used to commit or to facilitate the commission of human rights violations;
- Adopt the recommendation of the Special Rapporteurs on torture⁶ and on extrajudicial, summary or arbitrary executions⁷ to appoint a Special Rapporteur for Colombia.

INDONESIA

Democratic reform has so far failed to prevent systematic human rights violations continuing on a wide scale in Indonesia. Freedom of expression and association have greatly increased, and other positive initiatives have been taken including the release of prisoners of conscience and investigations into a number of past violations. However, extrajudicial executions, “disappearances”, arbitrary detention, torture and ill-treatment continue to be regularly reported. Particularly serious human rights concerns exist in the provinces of Aceh and Papua where there is strong opposition to Indonesian rule. Members of the security forces responsible for committing human rights violations are only rarely brought to justice.

Since November 1998 two thematic mechanisms of the Commission on Human Rights visited Indonesia: the Working Group on Arbitrary Detention (WGAD) and the Special

⁶ *Special Rapporteur of the Commission on Human Rights on the question of torture*

⁷ *Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions*

Rapporteur on violence against women⁸, although neither visited Aceh or Papua. Furthermore, two delegations of the UN Security Council, three UN Special Rapporteurs, and an International Commission of Inquiry have visited Indonesia and East Timor since November 1999 in relation to the widespread human rights violations committed in the wake of the 30 August 1999 popular consultation in East Timor⁹.

Amnesty International welcomes the cooperation which the Indonesian government extended to UN officials during these visits, but remains concerned that important recommendations by UN bodies have not been implemented and by the slow pace of human rights reform in general. For example, some but only few steps have been taken to address the urgent need for far-reaching institutional and legal reform identified in the report of the WGAD of August 1999. This failure contributes to the continuation of gross human rights violations.

In Aceh, in the north of Sumatra, many hundreds of people have been extrajudicially executed during the past two years in the course of operations by the Indonesian police and military against the armed opposition group Free Aceh Movement (*Gerakan Aceh Merdeka* - GAM). Hundreds of alleged GAM suspects have been detained, many have been tortured or ill-treated in police or military custody -- some died as a result -- and others "disappeared". Despite the June 2000 implementation of an agreement between the Indonesian authorities and GAM for an effective cease-fire, both sides continue to commit human rights abuses. Victims include civilians, among them humanitarian workers, human rights defenders, political activists and women and children.

The UN Special Rapporteur on violence against women concluded in her January 1999 report that rape was used as an instrument of intimidation and torture by certain elements of the security forces in Aceh, Irian Jaya (now known as Papua) and East Timor. Amnesty International has documented continuing cases of rape and other forms of sexual abuse of women and girls in Aceh during the past year.

In Papua, the government has also engaged in dialogue with supporters of the independence movement but human rights violations by the security forces continue. At least 15 people are reported to have been killed and dozens injured by security forces during the year 2000. Detainees, including people held for the peaceful expression of their support for independence, have been tortured and ill-treated.

⁸ *Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences*

⁹ On 30 August 1999 the East Timorese voted against special autonomous status within Indonesia in a UN implemented popular consultation. Earlier, under a 5 May 1999 Agreement between Portugal, Indonesia and the UN, Indonesia agreed to relinquish control over East Timor should special autonomy be rejected. However, following the announcement of the results and prior to their withdrawal, the Indonesian security forces and pro-Indonesia militia participated in an organized attack on the population of East Timor. Hundreds of people were reportedly extrajudicially executed during September 1999. Others were subjected to torture, including rape. Over a quarter of a million people fled, or were forcibly expelled from East Timor.

Although investigations have been conducted into some human rights violations, prosecutions of suspected perpetrators continue to be rare. Despite a series of preliminary investigations into thousands of human rights violations reported during the last decade in Aceh, only two cases have come to trial. The most recent one involves the alleged extrajudicial execution of Teungku Bantaqiah, a Muslim cleric, and around 50 of his followers in West Aceh in July 1999. Deficiencies in the trial process included: the absence of a witness protection program, prosecution witnesses said they were too scared to testify and those with command responsibility were not brought to trial.

Weaknesses in the legal and judicial framework continue to obstruct successful investigations and trials of perpetrators of human rights violations. The WGAD recommended in their 1999 report that the independence of the police and the judiciary in Indonesia should be reinforced; that the Code of Criminal Procedure should be reformed; and that existing laws should be properly implemented to ensure that the rights of detainees are fully guaranteed. However, the separation of the judiciary from the executive is still incomplete, impacting negatively on the independence of the judiciary. Reform is also required to protect the rights of suspects and witnesses. Reform of the Code of Criminal Procedure has not yet started and existing rights of detainees are often not implemented.

Progress in bringing to justice those responsible for committing serious human rights violations, some of which amount to crimes against humanity, in East Timor during 1999 is also slow. The International Commission of Inquiry, after its late 1999 visit to East Timor and Indonesia, recommended that the UN should establish an international tribunal on East Timor.¹⁰ Following another visit, the three UN Special Rapporteurs on extrajudicial, summary or arbitrary executions, torture and violence against women recommended the establishment of an international criminal tribunal unless efforts by the Government of Indonesia to investigate the Indonesian National Army's "involvement in the past year's atrocities bear fruit [in a matter of months], both in the way of credible clarification of the facts and bringing to justice of the perpetrators".

Although investigations into five cases were completed by mid-October 2000, no one has yet been charged or brought to trial for these crimes well over one year after the Indonesian security forces and pro-Indonesian militia perpetrated massive and widespread violations of human rights in East Timor. It is not clear whether trials will proceed under recently adopted legislation on Human Rights Tribunals -- which requires to be further strengthened to meet international standards -- or under existing law, which has proved to be inadequate in previous cases involving human rights violations.¹¹ It is thus increasingly unlikely that the perpetrators of abuses committed in East Timor will be brought to justice in Indonesia in trials meeting international standards of fairness.

¹⁰ The International Commission of Inquiry (ICOI) was established by the UN Secretary-General on the recommendation of the fourth special session of the Commission of the Commission on Human Rights which met on 24-27 September 1999 adopting resolution 1999/S-4/1. The five members of the ICOI visited East Timor and Indonesia from 25 November to 8 December 1999. It reported on 31 January 2000 (Report of the International Commission of Inquiry on East Timor (S/2000/59).

¹¹ Comments on the draft law on Human Rights Tribunals - AI Index ASA 21/25/00, June 2000.

Some 100,000 refugees who fled or were forcibly expelled from East Timor in September 1999 by the Indonesian security forces and pro-Indonesian militia remain stranded in West Timor, Indonesia. The fourth special session of the Commission on Human Rights called in September 1999 on the Indonesian government to guarantee the voluntary return of all the refugees. Repatriation efforts have been continually hampered by threats, intimidation and misinformation by militia in West Timor and by attacks on humanitarian workers, culminating in the 6 September 2000 killing of three UNHCR staff members in Atambua, West Timor as a result of which the repatriation program was suspended.

Amnesty International calls on the Commission to:

- adopt a resolution condemning gross human rights violations in Indonesia;
- urge the Indonesian government to take immediate measures to stop extrajudicial executions, “disappearances”, arbitrary detentions and torture and ill-treatment in Aceh, Papua and elsewhere in Indonesia, to institute credible investigations into allegations thereof and to bring the perpetrators to justice in accordance with international fair trial standards;
- request the government to invite the Special Rapporteurs on torture and extrajudicial, summary or arbitrary executions to visit especially Aceh and Papua;
- urge the government to speed up measures for legal reform and implement the recommendations by the WGAD, especially by introducing a legal obligation to produce arrested persons promptly before a judge and by accelerating the process of separating the judiciary from the executive with adequate guarantees protecting judges from all undue outside interference.
- express concern that perpetrators of serious human rights violations and international crimes, including crimes against humanity, committed in East Timor in 1999 have not yet been brought to justice in Indonesia and urge the Commission, in accordance with the recommendations of the International Commission of Inquiry and the Commission’s three UN Special Rapporteurs following their visit to East Timor, to take steps for the creation of an international criminal tribunal on East Timor;
- urge the government to implement the recommendations made by various UN bodies to guarantee the voluntary return of all East Timorese refugees in Indonesia and to provide immediate and secure access to refugees by national and international humanitarian agencies;
- request the government to fulfil its commitment made under the national Plan of Action on Human Rights to sign and ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social Rights, and to do so without limiting reservations. Urge the government to implement in full the international treaties it has ratified especially the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment and to ensure that its

laws and practices are brought fully in line with these standards. This includes ensuring that torture and violence against women is specifically prohibited in national law;

- ensure that human rights defenders are provided with safe and secure access to all areas of Indonesia, including Aceh and Papua.

RUSSIAN FEDERATION/ CHECHNYA

The human rights crisis in Chechnya failed to improve after Russian forces started reducing large-scale military activities in the first quarter of 2000. Russian authorities claimed that the situation has normalized. However, Amnesty International continued to receive reports that Russian forces frequently resorted to indiscriminate bombing and shelling of civilian areas in breach of international humanitarian law, and that they extrajudicially executed dozens of Chechen civilians and prisoners of war every month. Russian forces continued to detain arbitrarily large numbers of civilians. Many were held in incommunicado detention in “filtration camps”, where torture, ill-treatment, extrajudicial executions and “disappearance” were reported to be routine¹².

Chechen fighters have reportedly frequently threatened and in some cases killed members of the Russian-appointed Temporary Civilian Administration and executed Russian prisoners of war. Since the Russian military captured Chechnya’s major population centres, Chechen fighters have regrouped in the mountainous south. In areas controlled by Russian forces they have resorted to hit and run attacks on Russian soldiers.

The civilian population continue to be the major victims of attacks by the Russian forces. Civilians were arbitrarily detained in the course of “cleansing operations”, in which some were summarily executed. Apparently, such “cleansing operations” were used by Russian forces to carry out systematic looting. Relatives of detainees arrested in the course of such operations often had to pay a ransom for their release. Civilians also risked arbitrary detention at the numerous military checkpoints for “filtration” on a wide range of pretexts. Many were held incommunicado, in unofficial makeshift facilities, including storage containers or specially dug pits at checkpoints.

Allegations of widespread torture at “filtration camps” were made in early 2000, and received international attention. Amnesty International has compiled testimonies of torture victims in “filtration camps” which attest to systematic beatings with clubs and hammers. Other torture methods included rape, electric shocks, and tear gas as well as the detainees’ teeth being filed off. Detainees in “filtration camps” are not officially registered by the Russian authorities and do not have access to a lawyer or their family, which places them at great risk of torture and ill-treatment or extrajudicial execution.

¹² See: Russian Federation: What future for Chechens - citizens or subjugated people; AI INDEX: EUR 46/44/00.

An estimated 300,000 civilians remain displaced by the conflict, both inside Chechnya and in neighbouring republics. 150,000 of them are in Ingushetia, spending their second winter in very poor conditions, many lacking adequate shelter and hygiene. Arbitrary official restrictions prevent most from travelling to other territories of the Russian Federation, placing a major strain on Ingushetia's own population. The displaced civilians are not yet returning to their homes because many of them have been destroyed. They also fear that their safety and physical security would be at risk.

Convinced, on the basis of past practice, that national inquiries would not be effective, Amnesty International called at last year's Commission for an international investigation into allegations of grave abuses of human rights and humanitarian law, as the only effective way to end impunity and ensure justice for the victims. The Commission, in resolution 2000/58, merely called for a national, broad-based, independent commission of inquiry to be established in accordance with recognized international standards, to promptly investigate alleged abuses in order to establish the truth, identify those responsible and help bringing them to justice. However, one year on, none of the bodies established by the Russian authorities -- the National Public Commission, or the Office of the Special Representative of the President on Human Rights and Freedoms in the Chechen Republic -- have fulfilled that aim.

During last year's Commission session, the Russian authorities announced on 17 April 2000 the creation of a National Public Commission, headed by two members of parliament and a newspaper editor. The National Public Commission is a poorly resourced, unregistered non-governmental organization which has no powers to mount its own investigations into allegations of grave abuses of international human rights and humanitarian law. It does not have legal powers to subpoena official documents or witnesses. Its output has been limited to public denunciations of ongoing human rights violations by Russian forces, and the establishment of some local offices to give legal advice and receive complaints of human rights violations. It reportedly received hundreds of such complaints, stating it planned to pass them on, with its recommendations, to official bodies for investigation.

In February 2000 the Russian authorities established the Office of the Special Representative of the President on Human Rights and Freedoms in the Chechen Republic, and appointed Vladimir Kalamanov, a member of the government, to the post. In Moscow the office is manned by personnel of the Presidential Administration. The Chechnya office, located in the village of Znamenskoye, has a staff of over 20, who receive complaints of human rights violations there and at other reception points in the republic. The Office has received technical assistance from international organizations, and three Council of Europe experts have been attached to it since June 2000.

The Office does not have a mandate to carry out its own investigations, but passes on complaints of human rights violations of Chechen citizens to official bodies. It claims to have received several thousand such complaints. By September 2000 the Special Representative reported that 517 criminal cases had been initiated against Russian servicemen, yet only 20 of these concerned human rights related crimes committed against the local population. Apparently, no criminal cases have been initiated into the indiscriminate use of military force,

any of the massacres of civilians documented by human rights organizations, or any cases of arbitrary detention, torture or ill-treatment.

On 22 September 2000 the Special Representative stated that no complaints of torture had been received from detainees at Chernokozovo or other detention centres (the “filtration camps”), although he acknowledged that many detainees might be afraid to speak up and that the Office would have to improve its methodology. Moreover, when officials of the Office of the Procurator of the Temporary Civilian Administration in Chechnya conducted investigations, they reportedly faced obstructions or lack of cooperation from the Russian military authorities as in their investigations into the unlawful killing of a Chechen woman in Grozny by Russian soldiers on 25 September 2000. Amnesty International does not know of any alleged perpetrators of such grave violations of human rights and humanitarian law having been brought to justice.

The Russian authorities have also failed to implement other key provisions of Resolution 2000/58, notably the Commission’s request that five of its thematic mechanisms be invited to visit Chechnya and neighbouring republics. On 15 September 2000 the High Commissioner informed the Commission that “ the Government of the Russian Federation has reiterated its position that requests for visits to the region from special mechanisms of the Commission on Human Rights can only be possible within the general framework of their mandates and without any link to the resolution of the Commission referred to above. The Russian authorities have extended invitations to visit the Russian Federation to the Special Rapporteur on violence against women and the Special Representative of the Secretary-General for children and armed conflict on that basis. It will be recalled that three other mechanisms have requested visits: the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Representative of the Secretary-General on internally displaced persons”.¹³ This shows that the Russian authorities are not willing to act upon the specific terms of the Commission resolution. Indeed, as of writing [early December 2000], the latter three mechanisms had not been invited and none of the five mechanisms had visited Chechnya.

The Russian authorities continue to control the flow of information from Chechnya, which facilitates impunity for serious human rights violations. Victims of torture still dare not have their identities revealed for fear of reprisals. Independent monitoring and reporting in Chechnya is heavily controlled by the Russian authorities. In November 2000 the OSCE chairmanship criticized the Russian authorities for placing obstacles in the way of the deployment of the OSCE Chechnya Assistance Group into Chechnya. Amnesty International and other independent national and international non-governmental human rights organizations are still not allowed access to Chechnya by the Russian authorities.

Amnesty International calls on the Commission to:

¹³ Statement by the High Commissioner for Human Rights at the Informal One-day Meeting of the Commission on Human Rights, 15 September 2000.

- adopt a resolution expressing serious concern about the continuing grave abuses of international human rights and humanitarian law committed in the Chechen Republic and calling on all parties, in particular the Russian government, to take effective steps to halt them;
- establish an international commission of inquiry into allegations of grave abuses of human rights and humanitarian law, as the only effective way to end impunity and ensure justice for the victims;
- urge the government of the Russian Federation to fully implement last year's Commission resolution, by promptly inviting the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on internally displaced persons, and by inviting, as the High Commissioner requested, the Special Rapporteur on torture and the Special Rapporteur on violence against women to conduct a joint visit, and by facilitating the visit of the Special Representative of the Secretary-General for children and armed conflict;
- urge the government of the Russian Federation to take effective steps to halt and prevent torture and ill-treatment of persons held in connection with the conflict, notably in "filtration camps";
- urge the government of the Russian Federation to ensure immediate and effective access to Chechnya for national and international human rights and humanitarian organizations;
- ensure that a return visit by the High Commissioner, called for in resolution 2000/58, takes place enabling her to report to the Commission at its fifty-seventh session.

SAUDI ARABIA

At last year's Commission on Human Rights Amnesty International raised grave concerns about Saudi Arabia's record of gross and systematic violations of human rights.¹⁴ Prince Turki bin Muhammad bin Saud al-Kabeer, Deputy Foreign Minister, stated in that session of the Commission that Saudi Arabia was committed to the protection and promotion of human rights that the government was planning to create government and non-governmental structures to protect human rights and to introduce a law to regulate the legal profession. He also announced that the UN Special Rapporteur on the independence of judges and lawyers had been invited to visit the country. In September the Kingdom acceded to the Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention), however with a very broad reservation.¹⁵

¹⁴ Saudi Arabia: A secret state of suffering, AI Index: MDE 23/01/00.

¹⁵ "In case of contradiction between any form of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the convention". The government also entered a reservation that it would not be bound by provisions on the equal rights of men and women to pass their nationality on to their children.

Amnesty International welcomed these undertakings by the government as a first step and urged that international human rights standards underpin the translation of the proposals into reality. Amnesty International has requested to visit the country to meet with government officials to discuss proposals for reform, but has not received a response from the government. Until the proposals become a reality for the people of Saudi Arabia, and human rights violations cease and the criminal justice system and discrimination laws are reformed, the human rights situation in the country will remain a serious concern to Amnesty International.

Amnesty International believes that fundamental deficiencies in the criminal justice system in Saudi Arabia lead to gross and systematic human rights violations. The system is premised by secrecy - from arrest to all the stages of trial. It gives excessive powers to the arresting authorities and those caught up in the system are denied their human dignity and fundamental rights. It generates and perpetuates torture and ill-treatment and offers no opportunity for redress. It is also a system that discriminates against religious minorities, women and migrant workers.¹⁶

Saudi Arabia permits no criticism of the state and arrests on political or religious grounds continue. Scores of members of the Shia Ismaili community of Najran province, including possible prisoners of conscience, were arrested following demonstrations and clashes in April protesting against the forcible closure of their mosque by security forces. Many are believed to remain held incommunicado and their whereabouts are unknown. Amnesty International has sought clarification of their details and legal status but has received no response from the government. Moreover, persons arrested in previous years on political grounds continue to remain in detention without charge or trial. For example, Dr. Saïd bin Zuair, head of the Department of Information at Imam Mohamed bin Saïud Islamic University, remains in prison. He was arrested in early 1995 by members of *al-Mabahith al-Amma* (General Intelligence) and remains held without charge or trial in al-Haïr prison having reportedly refused to sign an undertaking to cease political activities in exchange for his release. The widespread practice of arbitrary arrest is made possible because numerous arresting authorities act without judicial accountability, and operate on the basis of denying detainees their basic rights.

Those persons who are charged with a criminal offence have little chance to receive a fair trial. Suspects are often arrested without judicial warrant, held incommunicado for lengthy periods, denied the opportunity to challenge the legality of their detention and are often not informed of the nature of the charges against them. Trials are invariably held behind closed doors, with defendants denied legal assistance. They are also denied adequate opportunity to appeal and are frequently not informed of the progress of the legal proceedings against them. Many defendants face the death penalty or cruel judicial punishments such as flogging or amputation after unfair trials. The criminal justice system also relies heavily on "confessions" however there are no safeguards in place to ensure that "confessions" obtained under torture are not used.

¹⁶ See Saudi Arabia A justice system without justice; AI Index MDE 23/02/00.

Women continued to be subject to human rights abuses by the State, including arbitrary arrest and detention, torture and the death penalty.¹⁷ Women also remain victims of severe forms of discrimination enforced by the state. Discrimination includes limitations on freedom of movement, resulting in effective imprisonment within the home, and preventing recourse to protection or redress from human rights abuses. Equal educational and vocational opportunities continued to be denied to girls and women. Women abused by private individuals continued to be denied access to adequate protection or redress by the government and female domestic workers remained at particular risk of human rights abuses, including physical and verbal abuse, due to severe restrictions on their liberty, freedom of movement and association.

Amputations, a form of torture, and floggings amounting to torture or cruel, inhuman and degrading treatment remain common practice in Saudi Arabia as judicial punishments. During 2000 Amnesty International recorded 34 reported cases of amputations, 24 of the amputations were on foreign nationals and 7 were cross amputations of the right hand and left foot.¹⁸ Amputations are usually reserved for theft and armed robbery. In August Abdel Moxi Abdel Rahman Mohammad, a 37-year-old Egyptian, was found guilty of disfiguring another Egyptian by throwing acid at his face and damaging his left eye. He was sentenced to be blinded in one eye and had his left eye surgically removed at King Fahd Hospital in Medina. Flogging is used for offences which are alcohol related and sexual offences outside marriage but it is also used by judges as an additional or substitution for other punishments in any criminal offence. Following the demonstrations in Najran (see above) two teachers were arrested and reportedly sentenced to 1,500 lashes each in addition to terms of imprisonment. Amnesty International has documented cases of flogging of children in violation of Saudi Arabia's obligation under Article 37 of the Convention on the Rights of the Child which requires that children are protected from torture and ill-treatment.

During 2000 at least 123 people were executed.¹⁹ The death penalty is imposed for a wide variety of offences including sorcery, apostasy, adultery, sodomy, drug smuggling, highway robbery and murder. The majority of those executed were foreign nationals. For example Hassan bin Awadh al-Zubair, a Sudanese national, was executed in April in Mecca after being convicted of sorcery. Of the 766 executions recorded by Amnesty International between 1990 and 1999, more than half were of foreign nationals. This figure includes 72 men and women from Nigeria.²⁰ In 2000 of the 123 executions recorded at least 68 were foreign nationals.²¹ Press reports also indicate that the death penalty is imposed on persons

¹⁷ Saudi Arabia: Gross human rights abuses against women, AI Index: MDE 23/57/00.

¹⁸ This figure is as of 23 November 2000.

¹⁹ This figure is as of 23 November 2000.

²⁰ Saudi Arabia: Execution of Nigerian men and women, AI Index: MDE 23/49/00.

²¹ This figure is as of 23 November 2000.

below the age of 18 years in violation of customary international law.²² The Saudi Arabian government continues to ignore requests from Amnesty International for clarification on the minimum age for imposition of the death penalty. International standards oblige states to limit the scope of the death penalty for the most serious crimes and the Commission in successive resolutions has called on states to restrict the number of offences for which the death penalty may be imposed and to establish a moratorium on executions, with a view to completely abolishing the death penalty.²³

Amnesty International calls on the Commission to:

- adopt a resolution expressing concern about gross and systematic human rights violations in Saudi Arabia urging the government to take urgent steps to end the secrecy of the criminal justice system and discriminatory laws and practices and calling on the government to put into immediate effect the undertakings it made before the Commission last year;
- urge the government to immediately suspend executions pending complete abolition of the death penalty and to comply with its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by abolishing floggings and amputations immediately;
- urge the government to reform the judicial system to ensure that trials are always in accordance with international standards of fairness;
- urge the government to ensure that persons arrested are not subject to incommunicado detention and that there is a prompt and impartial investigation of any allegations of torture;
- request the government to invite the Special Rapporteur on torture to visit Saudi Arabia in 2001 and report to the 2002 session of the Commission;
- request the government to sign and ratify without limiting reservations the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, to withdraw its broad reservations to the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and Convention on the Elimination of All Forms of Discrimination against Women and to incorporate the obligations in these treaties into national law;
- urge the government to abolish all discriminatory laws and practices against women and against members of the Shia community and all minorities and vulnerable groups

²² The death penalty in relation to juvenile offenders, Resolution E/CN.4/Sub.2/Res/2000/17.

²³ UN Economic Social Council (ECOSOC) 1984/50 resolution on 'Safeguards guaranteeing protection of the rights of those facing the death penalty' and Commission Resolutions 1998/8, 1999/61 and 2000/65.

in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination and the Elimination of All Forms of Discrimination against Women, and other international human rights standards which together prohibit all forms of discrimination. The government should bring its laws and practices into line with these international standards;

- urge the government to permit human rights non-governmental organizations to visit the country to investigate the human rights situation.

SIERRA LEONE

Serious threats to the protection of human rights remain in the current uncertain political and security situation. The capture of UN peace-keeping forces by rebel forces in May 2000 and the subsequent resumption of hostilities between government-allied and rebel forces resulted in an increase in human rights abuses. Rebel forces remaining in control of large parts of the north and east of the country have continued to kill, rape and abduct civilians and force children to fight. Government-allied forces, including the Sierra Leone Army and the Civil Defence Forces, have also been responsible for extrajudicial executions, torture and ill-treatment, and recruitment of children as combatants.²⁴ Although a 30-day cease-fire was agreed on 10 November 2000 between the armed opposition Revolutionary United Front (RUF) and the government, the situation remains volatile.

The international community, in particular the UN, has taken important initiatives to respond to continuing threats to peace and stability in Sierra Leone. The UN Security Council decided to strengthen the UN Mission in Sierra Leone (UNAMSIL), to act to end the trade in diamonds from rebel-held areas of Sierra Leone²⁵, and to establish a Special Court for Sierra Leone to prosecute those most responsible for crimes against humanity, war crimes and other serious violations of international humanitarian law.²⁶

The decision to establish the Special Court is a significant step towards ending impunity. It takes account of the Commission on Human Rights' reaffirmation at its last session that the international community would exert every effort to bring to justice those responsible for serious violations of international human rights and humanitarian law in Sierra Leone. Amnesty International has made a number of recommendations to ensure that the Special Court will be effective and fair and will contribute towards providing justice to the many thousands of victims of human rights abuses.²⁷ It recommended that the court

²⁴ For further information on the use of child combatants, see *Sierra Leone: Childhood - a casualty of conflict* (AI Index: AFR 51/69/00), published by Amnesty International on 31 August 2000.

²⁵ Security Council Resolution 1306 (2000) of 5 July 2000.

²⁶ Security Council Resolution 1315 (2000) of 14 August 2000.

²⁷ For further information, see *Sierra Leone: Ending impunity - an opportunity not to be missed* (AI Index: AFR 51/60/00), published by Amnesty International on 26 July 2000, and *Sierra Leone: Recommendations on the draft Statute of the Special Court* (AI Index: AFR 51/83/00),

prosecute those most responsible for crimes against humanity, war crimes and other serious violations of international humanitarian law throughout the period of the internal armed conflict, that is, since 1991, and that all recruitment of children as combatants be defined as a crime in the Statute of the Special Court.

The momentum for this important initiative must be sustained. In order to be effective, the Special Court must receive the necessary political, financial and practical support from the international community. The UN Secretary-General has expressed concern that a Special Court based entirely on voluntary contributions, as the Security Council has proposed, would be “neither viable nor sustainable”. He said that it would not provide the necessary assured and sustained funding required to appoint judges and prosecutors, and establish the necessary infrastructure for the court to begin and complete its work. He strongly recommended funding by assessed contributions.²⁸

The establishment of an effective court will also depend on the recruitment of suitably qualified personnel, including judges, prosecutors and lawyers, among them, as the UN Secretary-General has noted, those from the Commonwealth. Amnesty International believes that expert training should be provided to all judicial personnel in international criminal law and procedure, and international standards, as well as on gender-based crimes and crimes involving children.

Since the Special Court will only try those “most responsible”, the number of possible prosecutions is limited. This leaves many others to be tried by the national courts. As a result of the protracted conflict in Sierra Leone, however, the judicial system has collapsed and prompt and fair trials cannot be guaranteed. The international community, including the United Nations Development Programme and international financial institutions such as the World Bank, must ensure that priority is given to the speediest possible reconstruction of the judicial system. The Special Court should also ensure that the Sierra Leone judicial system will benefit from its expertise and experience, so that its courts can eventually assume responsibility for bringing to justice those perpetrators of human rights abuses who are not tried by the Special Court.

UNAMSIL, with an authorized strength in November 2000 of 13,000 troops, is currently the largest peace-keeping operation in the world and is deployed in a country which has experienced some of the worst known human rights abuses. It is essential that human rights issues are fully integrated into all aspects of peace-keeping in Sierra Leone and that the UNAMSIL human rights section is able to contribute fully to the development of policy and strategy. The human rights section’s full complement of staff - currently 14 - must be achieved and maintained.

The UNAMSIL human rights section continues to play a crucial role in monitoring human rights abuses and in promoting respect for and protection of human rights abuses. It

published by Amnesty International on 14 November 2000.

²⁸ Report of the Secretary-General on the establishment of a Special Court for Sierra Leone, 4 October 2000, S/2000/915, paragraphs 70 and 71.

should have sufficient funds and the means to design and implement quick-impact or short-term projects. Such projects would include: assistance to victims of human rights abuses, including full support for victims of rape; the reintegration of child combatants into their families and communities; training the security forces in investigating human rights abuses; providing legal texts and textbooks on international law and human rights law easily accessible to judges and legal practitioners, and assisting the effective functioning of the National Human Rights Commission provided by the 1999 Lomé peace agreement.

Rape and other forms of sexual violence against girls and women have been used systematically as a weapon of war during the conflict.²⁹ Almost all the thousands of girls and women who have been abducted by rebel forces have been raped and forced into sexual slavery. Urgent and sustained assistance from the international community is needed to address the needs of victims. The Special Rapporteur on violence against women is well placed to help assess the difficulties faced by the victims, the consequences of rape and sexual violence in Sierra Leone, and the need for redress. She could assess the short-term and structural measures necessary to address the consequences of sexual violence against women, including the medical, practical and other assistance required.

Amnesty International calls on the Commission, in adopting a resolution, to:

- urge leaders of the RUF to instruct their combatants to end all human rights abuses and to adhere to international human rights and humanitarian law;
- urge the government of Sierra Leone to ensure that all government-allied forces, including the Civil Defence Forces, end human rights violations, and that all reports of human rights violations are investigated so that those responsible can be brought to justice;
- fully support the early establishment of an effective Special Court, including by ensuring that the court receives adequate and sustained funding to initiate and complete trials of those most responsible for the gravest human rights abuses committed since 1991;
- assist in identifying individuals of a high calibre, known integrity and specialized in international criminal law or other relevant fields for the positions of judges, prosecutors, registrar, investigators and other staff of the Special Court;
- assist in making relevant technical expertise available to all judicial personnel of the Special Court, including in relation to gender-based crimes, crimes involving children as victims or perpetrators, and witness protection and support;
- ensure that relevant international bodies, including the World Bank, give priority to the re-establishment of the rule of law including an effective and independent

²⁹ For further information, see *Sierra Leone: Rape and other forms of sexual violence against girls and women* (AI Index: AFR 51/35/00), published by Amnesty International on 29 June 2000.

national judicial system, and that the Special Court has all necessary means to help strengthen the national courts in the complex task of bringing perpetrators of human rights abuses to justice;

- emphasize that human rights should have a central place in the peace-keeping operation in Sierra Leone and stress that the UNAMSIL human rights section should be fully integrated into its strategy and policy-making processes;
- ensure that the human rights section of UNAMSIL is accorded its full complement of staff at all times and has access to readily available, dedicated funds for the implementation of quick- impact or short-term projects for the protection and promotion of human rights and for assistance to victims of human rights abuses;
- request the government to invite the Special Rapporteur on violence against women to visit Sierra Leone.

III THEMATIC ISSUES

THE DEATH PENALTY

Amnesty International opposes the death penalty in all cases without exception and continues to demand unconditionally the worldwide abolition of the death penalty.

In April 2000 the Commission adopted resolution 2000/65, entitled “the question of the death penalty”. The text of the resolution was similar to the one adopted in 1999, but strengthened by welcoming the sixth quinquennial report of the Secretary-General on capital punishment and implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty. As in 1999, the resolution urged states “to comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, notably not to impose the death penalty..... for crimes committed by persons below 18 years of age...”.

All states are now parties to international treaties which prohibit the imposition of the death penalty for crimes committed by persons below 18 years. One hundred and fifteen states whose laws still provide for the death penalty exclude its use against persons younger than 18 years or may be presumed to exclude its imposition because they are parties to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child or the American Convention on Human Rights.³⁰ However, since 1990, Amnesty international has documented executions of persons who were younger than 18 years at the time of the offence in seven countries: the Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, the United States of America (USA) and Yemen. The largest known

³⁰ Children and the death Penalty. Executions Worldwide since 1990, AI Index: ACT 50/10/00

number of such executions have been carried out in the USA. Pakistan and Yemen have since changed legislative measures to exclude the death penalty for such young offenders.³¹

The Democratic Republic of Congo, Iran and the USA have continued to impose the death penalty on persons who committed offences when below the age of 18 during the year 2000, in violation of the International Covenant on Civil and Political Rights and the Convention of the Rights of the Child. The USA and the collapsed state of Somalia are the only two states which have not ratified the Convention on the Rights of the Child, but are nevertheless bound by customary international law not to sentence or execute persons below the age of 18.

In August 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights unequivocally condemned the imposition and execution of the death penalty in relation to juvenile offenders (those under 18 at the time of the commission of the offence) in its resolution adopted by consensus.³² The Sub-Commission called on states that retain the death penalty for these young offenders to abolish such punishment and also recommended that the Commission on Human Rights confirm at its next session that the imposition of the death penalty on persons below the age of 18 is “in contravention of customary international law.”

Amnesty International calls on the Commission to:

- adopt a resolution on the question of the death penalty which builds upon the language of resolution 2000/65 and urges all states that have not yet abolished the death penalty, among others, to suspend all executions and to establish a moratorium on executions, with a view to completely abolishing the death penalty, while ensuring full respect for the application of the Safeguards guaranteeing protection of the rights of those facing the death penalty and other relevant international standards;
- confirm that the imposition of the death penalty on persons below the age of 18 years at the time of the offence contravenes customary international law and urging all states to immediately implement the prohibition thereof in law and practice.
- request the Secretary-General, when preparing his annual supplement to his quinquennial report on capital punishment and implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty, to pay particular attention to the imposition of the death penalty against persons younger than 18 at the time of the offence.

³¹ On 1 July 2000 the Juvenile Justice System Ordinance 2000 entered into force in Pakistan. It abolishes the death penalty for people younger than 18 years at the time of the offence. However, the Ordinance does not affect the position of some 50 persons, younger than 18 years old at the time of the offence, still known to be under sentence of death as of writing (December 2000), and the Ordinance does not provide for a review of their cases. In Yemen the minimum age for the use of the death penalty was raised to 18 years at the time of the offence in the Penal Code (Article 31 of Law 12).

³² E/CN.4/sub.2/RES/2000/17.

“DISAPPEARANCES”

Draft International Convention on the Protection of All Persons from Enforced Disappearances

“Disappearances” constitute one of the most appalling forms of human rights violations. When a person “disappears”, it causes extreme agony not only to the victims but also to their relatives, who are likely to be subjected to profound and prolonged suffering, often for the rest of their lives, searching in vain for the “disappeared”. Yet although the UN has set standards and created mechanisms to protect people from this pernicious form of gross violations, these have clearly been insufficient to halt or reduce the practice which persists in numerous countries.

The draft International Convention on the Protection of All Persons from Enforced Disappearances (draft Convention), now before the Commission, advances the international protection of victims of “disappearances” in a substantive and novel way and provides a comprehensive and integral approach to the problem. It establishes concrete obligations for states to prevent “disappearances” and to impose sanctions in their national legislation. It seeks to combat impunity for “disappearances” by listing enforced “disappearances”, their instigation, conspiracy to commit the crime of “disappearance” and the failure of the obligation to investigate, prevent and punish “disappearances” as international crimes subject to universal jurisdiction. Moreover, it treats the systematic and massive practice of “disappearances” as a crime against humanity. It requires states to make the abhorrent practice of abducting children of the “disappeared” a specific criminal offence, and also requires states to guarantee victims the right to reparation, which includes restitution, compensation and rehabilitation, not only in physical and psychological but also in legal terms. The draft Convention creates a flexible mechanism to monitor compliance with the convention and to deal with communications by individuals or groups, to be heard by a Committee against Disappearances which would have automatic competence to hear communications once a state becomes a party to the convention.

The draft Convention has been before Commission since 1998. In resolution 1999/38 the Commission took note of the draft convention and requested the Secretary-General to renew the invitation to States, international organizations and non-governmental organizations to submit their views and comments on the matter. NGOs, including Amnesty International, urged the Commission to establish an intersessional working group, mandated to bring about the rapid adoption of the Convention by the Commission. Since 1999, the Sub-Commission on the Promotion and Protection of Human Rights (the Sub-Commission) has urged the Commission to give priority consideration to the draft Convention, and this year, the Sub-Commission (in resolution 2000/18) recommended “that the Commission on Human Rights, in the light of the fact that it has recently concluded its consideration of the draft optional protocols to the Convention on the Rights of the Child, establish an inter-sessional working group to consider the draft international convention...”

The adoption of the above draft optional protocols on the Convention of the Rights of the Child and the conclusion of the Commission’s review of its special procedures, presents

the Commission with an excellent opportunity to take decisive steps towards the early adoption of a strong international convention to protect persons from “disappearances”. The Commission should proceed to establish immediately a working group, with the active participation of NGOs, to consider all available information and adopt a text which preserves and strengthens the draft, including all elements identified above.

Amnesty International calls on the Commission to:

- establish at its 57th session an Intersessional Working Group with the mandate to study and adopt, with the full and active participation of NGOs and within the tightest possible time- frame, a strong Convention on “disappearances” which reflects the latest developments in international law and preserves and strengthens the current draft.

TORTURE

Draft Optional Protocol on the Convention against Torture

A Working Group of the Commission has been meeting since 1992 every year to review the draft text of the Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Draft Optional Protocol), submitted by Costa Rica in 1991. At its last session in 2000, the Commission approved the report of the 8th session of the working group³³ and renewed the Working Group’s mandate to continue drafting the Optional Protocol.

The Protocol would create a unique mechanism within the UN system for combatting torture by focussing on *prevention* rather than responding to ongoing violations. It seeks to create a global system to visit places of detention with the express purpose of preventing torture and ill-treatment. An expert body currently known as the Sub-Committee (of the Committee against Torture) would carry out inspection visits and make confidential reports including concrete recommendations to the authorities about how to prevent torture.

Amnesty International has actively participated in the Working Group and noted that, while many states appeared willing to negotiate a strong and effective protocol, a few states maintain objections on key provisions which could substantially weaken the text. The Working Group session of February 2001 will be crucial and Amnesty International hopes that consensus is reached so that a strong and effective protocol can be approved by the Commission. However, Amnesty International is concerned to ensure that, in that process, there is no deviation from the main purpose of the Protocol which is to create an effective mechanism to prevent torture. Consensus should not be reached at any price and a weak Protocol would be a major set-back for the protection of potential victims of torture and could even undermine the important preventive work of organizations such as the ICRC or UN special procedures dealing with various aspects of torture.

³³ E/CN.4/2000/56

The key principles for an effective protocol to prevent torture, that should be preserved, include:

1. The notion of no-prior consent. A standing invitation to visit the territory of any state party to the Protocol is central to the Protocol and needs to be clearly stated in the text. The Sub-Committee must be able to carry out visits to any state which has ratified the Protocol without having to seek further permission for each individual visit.

2. Scope of missions. The Sub-Committee should be guaranteed unlimited access to all places of detention and to all detainees and have the right to interview detainees in private.

3. Publication of Sub-Committee reports in special cases. In the event that a state refuses to cooperate or partially releases the Sub-Committee's report, the Sub-Committee should be able to make a public statement or publish its report.

4. No reservations. The Protocol does not include any new substantive norms but merely creates a mechanism designed to implement preventative measures and therefore reservations to the Protocol should not be permitted.

5. National legislation. National legislation should not be permitted to limit or restrict the work of the Sub-Committee.

Amnesty International calls on the Commission to:

- give full support to the Working Group and ensure that a strong optional protocol is approved which reflects the above five principles and which provides for an effective system in which ratification of the protocol serves as consent of the state concerned.

Annex

Selective list of other Amnesty International documents

The following documents are available from Amnesty International section offices, the International Secretariat in London and other Amnesty International UN Office in Geneva

General

Amnesty International Report 2000

AI Index: POL 10/01/00

56th Commission on Human Rights (2000): Statements and press releases issued by Amnesty International

AI index: IOR 41/07/00

Colombia

Colombia: Protection of human rights defenders: One step forward, three steps back

AI index: AMR 23/22/00

Colombia: Return to hope - forcibly displaced communities of Urabá and Medio Atrato region

AI index: AMR 23/23/00

Colombia: Human rights and USA military aid to Colombia: A document published jointly by Amnesty International, Human Rights Watch and the Washington Office on Latin America

AI index: AMR 23/65/00

Colombia: Amnesty International's position on Plan Colombia

AI index: AMR 23/49/00

Indonesia

Indonesia: Acehese Human Rights Defenders under attack

AI index: ASA 21/06/00

Indonesia: Comments on the draft law on Human Rights Tribunals

AI index: ASA 21/25/00

Indonesia: Impunity persists in Papua as militia groups take root

AI index: ASA 21/34/00

Indonesia: A cycle of violence for Aceh's children

AI Index: ASA 21/59/00

Indonesia: The impact of impunity on women in Aceh

AI Index: ASA 21/60/00

Indonesia: Activists at risk in Aceh

AI Index: ASA 21/61/00

East Timor: Building a new country based on human rights

AI Index: ASA 57/05/00

Russian Federation

Russian Federation: What future for Chechens - citizens or a subjugated people?

AI index: EUR 46/44/2000

Russian Federation: Violations of human rights and international humanitarian law in the Chechen Republic: Amnesty International's recommendations to the 56th session of the UN Commission on Human Rights

AI index: EUR 46/14/2000

Saudi Arabia

Saudi Arabia: A secret state of suffering

AI index: MDE 23/02/00

Saudi Arabia: A justice system without justice

AI index: MDE 23/02/00

Saudi Arabia: Gross human rights abuses against women

AI Index: MDE 23/57/00

Sierra Leone

Take action to stop abduction, rape and sexual slavery of girls and women in Sierra Leone

AI index: AFR 51/53/00

Sierra Leone: Ending impunity - an opportunity not to be missed.

AI index: AFR 51/60/00

Sierra Leone: Childhood - a casualty of conflict

AI index: AFR 51/69/00

Sierra Leone: Recommendations on the draft Statute of the Special Court

AI index : AFR 51/83/00