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UN Human Rights Council
Ninth Session, 8-24 September 2008

Compilation of statements by Amnesty International
(including joint statements and public statements)



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**UN Human Rights Council
Ninth Session
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The following statements were made during the ninth session of the Human Rights Council that took place from 8 to 24 September 2008.

ITEM 1 – ORGANIZATIONAL AND PROCEDURAL MATTERS

Appointment of Special Procedures mandate holders: Oral statement, 24 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080924pm2-eng.rm?start=00:04:30&end=00:07:50>

Delivered by Patrizia Scannella

Mr. President,

Amnesty International congratulates the four experts who have just been appointed as special procedure mandate-holders.

Mr. President,

We welcome the steps taken by the Consultative Group in its Report of 30 July 2008 that contribute to greater transparency and information around the selection and appointment of Special Procedure mandate-holders. The new and positive elements include the information about the two-step process and the inclusion Annex I list of 200 initial candidates and the Annex 2 list of candidates considered by the Consultative Group at the second stage of the process. We also welcome that the report provided some information about the nominees' relevant expertise and experience.

Amnesty International encourages the Group to build on the positive developments in its July report to further improve the transparency of the appointment process. This could be done by steps such as the following:

Future reports should also include a reminder of the need for due consideration of gender balance and appropriate representation of different legal systems for the special procedures system as a whole, as spelled out in resolution 5/1 operative paragraph 40.

For each vacant mandate, the reports should include a description of the mandate-specific requirements used in deciding which candidates to recommend. We urge the Consultative Group to consult with stakeholders, in particular current or outgoing mandate-holder to determine the necessary expertise, experiences, skills and other relevant requirements for each mandate to be filled - as required by operative paragraph 51 of resolution 5/1. In the case of a new mandate – such as the expert on access to safe drinking water and sanitation in this round – where there is no outgoing mandate-holder to consult, the Group could consult the Coordination Committee of the Special Procedures for generic recommendations based on the experience of existing mandate-holders. Other stake holders, including NGOs, could also provide useful guidance about mandate-specific criteria.

The Consultative Group's report should describe how the recommended candidates meet the general and mandate-specific criteria. The Group's July report includes some often general information about the expertise and skills of some of the recommended candidates. However, in relation to other candidates, the report includes no information about their experience or expertise. It simply suggests that they be considered or notes expression of support for them. It would be useful to have a fuller substantiation in the report of why the Group supports or mentions particular candidates. As the Public List is not easy to search, we also recommend that the report include the CVs of the experts recommended so as to facilitate your process of consultation Mr President.

Where a candidate holds or has held a position that might be perceived as giving rise to a conflict of interest, the Consultative Group should explain in the report why it has concluded that such a conflict does not arise. This will help avoid subsequent challenges to the independence of the recommended candidate.

Thank you Mr. President.

ITEM 4 – HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

Questions for interactive dialogue with Sima Samar, Special Rapporteur on the situation of human rights in the Sudan, 16 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080916pm-eng.rm?start=00:36:36&end=00:39:04>

Delivered by Chiara Pallanch

Amnesty International welcomes the latest report of the Special Rapporteur on Sudan and supports the recommendations contained in the report.

The human rights situation in the Sudan continues to be of grave concern. Human rights violations being reported include arbitrary and unlawful arrests, unlawful detentions, torture and other forms of ill-treatment during pre-trial detention. Violations of the right to fair trial are

endemic. Individuals are often arrested and kept incommunicado for prolonged periods of time by the National Intelligence and Security Services (NISS), frequently in unofficial detention centres where torture and other forms of ill treatment are reported. [Detainees are often prevented from accessing lawyers, their families or medical assistance while in pre-trial detention. Individuals are often held without being charged, thus not allowing them to legally challenge their detention.]

The government continues to severely restrict and violate freedom of expression. Restrictions have been particularly tight after February 2008: many Sudanese newspapers are routinely censored and there have been incidents of papers being forced to shut down. [Over the past six months, at least eight printed or online newspapers have been subjected to forms of censorship by the NISS and on several occasions they have been] prevented from publishing or copies of the latest paper's edition have been seized.

The situation in Darfur continues to be characterized by widespread and systemic violations of human rights and international humanitarian law by all parties to the conflict. The perpetrators of such violations enjoy almost total impunity [and Sudanese authorities have failed to put in place measures to combat such impunity.] Attacks against civilians by government forces and militias continue. [Civilians continue to bear the brunt of the clashes between government forces and armed opposition fighters. There have also been a large number of attacks against humanitarian convoys by armed opposition groups and bandits, which has led to a 50 per cent reduction of food aid reaching Darfur.]

In light of this grave situation, it is very important that the Human Rights Council remains seized of the human rights developments in Sudan and that the Council renews the mandate of the Special Rapporteur. In particular, the Special Rapporteur should continue to monitor the implementation by the government of Sudan of the recommendations compiled by the Group of Experts on the human rights situation in Darfur, especially those in relation to accountability and justice. [Among the recommendations, Amnesty International considers of particular importance are those relating to the protection from summary executions, arbitrary detentions, disappearances, torture, as well as the protection of the civilian population and internally displaced people in Darfur. As recommended by the Group of Experts, the government must implement a plan to control and disarm the militia, to protect women and human rights defenders and to improve accountability and justice.]

AI would be grateful if the Special Rapporteur could elaborate on the following:

- Measures the government have taken to ensure that the perpetrators of crimes under international law committed in Darfur are brought to justice;
- Reassurances, if any, received from the government that it will refrain in the future from infringing on, and will uphold, freedom of expression, specially freedom of the press.

Sudan: Human Rights in Sudan need continuous attention (Written statement, UN index: A/HRC/9/NGO/50)

The human rights situation in the Sudan, and in particular in the Darfur region, continues to be of grave concern to Amnesty International. It is important that the Human Rights Council remains seized of the human rights developments in Sudan. In this light, it is also essential that the mandate of the Special Rapporteur on the situation of human rights in Sudan be renewed and that the Special Rapporteur be mandated to continue to report regularly to the Council on the situation of human rights throughout the country, including through the continued monitoring of the implementation by the government of Sudan of the recommendations compiled by the Group of Experts in their 2007 report. The Special Rapporteur should also be asked to continue to make recommendations to the government of Sudan and others, as relevant, aimed at enhancing the protection of human rights situation in Sudan.

The large scale and ongoing grave and systematic violations of human rights and international humanitarian law in Darfur are well documented. The government of Sudan has taken very few, if any measures to address these human rights violations.¹ Amnesty International also continues to receive consistent and credible reports of serious human rights violations committed in other parts of Sudan, in particular in relation to recent events in the Sudanese capital following the 10 May attack by the Justice and Equality Movement (JEM).²

Human rights violations that continue to be reported to Amnesty International include arbitrary and unlawful arrests, unlawful detentions, torture, and other forms of ill-treatment against individuals in pre-trial detention. Violations of the right to fair trial are endemic. Individuals are often arrested and kept incommunicado for prolonged periods of time by the National Intelligence and Security Services (NISS), frequently in unofficial detention centres or what are also known as “ghost houses” of the NISS. Detainees are often prevented from access to lawyers, their families or medical assistance while in pre-trial detention. Lack of judicial oversight of the detainees is often reported. Individuals are often held without being charged, thus not allowing them to legally challenge their detention.

Amnesty International has documented several such cases over the past year, in Darfur and as well as in Khartoum. The attack on 10 May 2008 by the Justice and Equality Movement on Omdurman, Khartoum, for example, was followed by hundreds of arrests in Khartoum by the NISS, mainly targeting Darfuris. A large number of individuals arrested in the context of the 10 May attack were held, often in unofficial places of detention, without access to lawyers and family visits. Many of the detainees were tortured and exposed to other ill-treatment, and some were subjected to enforced disappearance.

Criminal trials in Khartoum and other parts of Sudan violate international standards of fair trial. For example, as of 20 August 2008, 50 alleged members of the Justice and Equality Movement (JEM) had been sentenced to death by Special Counter-Terrorism Courts set up by the Ministry of Justice in the aftermath of the 10 May 2008 attack. The judicial process in

¹ Amnesty International, Web feature, *Civilians killed and displaced in Darfur clashes*, at <http://www.amnesty.org/en/news-and-updates/news/civilians-killed-and-displaced-darfur-clashes-20080211>.

² Amnesty International, *Sudan: Darfur crisis reached the capital*, 21 May 2008, AFR 54/023/2008.

these courts failed to satisfy international fair trial standards. Most of the accused were allowed access to lawyers only after their trials had begun, and in some cases the accused persons alleged that they had been forced to confess under torture and other ill-treatment. According to lawyers involved in the trials of people accused of taking part in the JEM attack on Khartoum, many of the defendants appearing before the special courts showed physical signs of ill-treatment and torture. In court, the accused complained of their ill-treatment at the hands of the NISS, and informed the court that they had been forced to sign confessions. Despite these complaints, the courts accepted the confessions and used them to convict the accused. Despite the complaints made by the accused of torture and other ill-treatment, including incommunicado detention, the courts refused to order any investigations. Amnesty International has received reports that approximately one hundred additional persons could face trial in connection with the JEM attack in Khartoum in the coming weeks.³ Hundreds of others who were arrested remain unaccounted for, and there is a risk that they have either been extra-judicially executed or subjected to enforced disappearance.

Amnesty International is concerned that officers working for the National Intelligence and Security Services (NISS) have been, and continue to be, involved in many cases of torture. The case of 10 people sentenced to death in November 2007 over the death of the Sudanese editor Mohammed Taha also illustrates the pervasive nature of torture in Sudan's criminal justice system. In that case, the accused alleged that they were tortured and forced to sign confessions, which were later produced in court. They were convicted and sentenced to death on the strength of these coerced confessions. These 10 accused were also held in incommunicado detention for prolonged periods of time by the NISS.

More death sentences have been passed this year in Sudan than in the whole of 2007. Lawyers of those sentenced to death in the JEM attack trials have told Amnesty International that they will appeal in all of these cases. Unlike in regular courts in Sudan, appeals from decisions of the Court of Appeal do not lie to the Supreme Court, but rather are heard by a Special Court of Appeal. Sentences of death handed down by counter-terrorism courts, once confirmed in the appeal stage, can be carried out immediately as soon as the President approves the verdicts and sentences.

The government continues to severely restrict and violate freedom of expression in Sudan. Amnesty International observed that restrictions on freedom of expression, inconsistent with international standards, were reinstated in Sudan after February 2008. Newspapers are now routinely censored, with some media outlets are being forced to shut down. Others have had their entire print-run confiscated and destroyed, and many more receive threats of physical harm. The censorship restrictions are not only stifling freedom of the press, but agents of the security services are also directly targeting and intimidating individual journalists. Over the past six months, at least eight printed or online newspapers have been subjected to forms of censorship by the NISS and on several occasions they have been prevented from publishing or copies of the newspaper's latest print edition have been seized.

³ Amnesty International, Press Release, *Sudan: Hundreds unaccounted for and 109 to face sham courts over May attacks*, 18 August 2008.

The situation in Darfur continues to be characterized by widespread and systemic violations of human rights and international humanitarian law by all parties to the conflict. The perpetrators of such violations enjoy almost total impunity. Attacks against civilians by government forces and militias continue. Civilians continue to bear the brunt of the clashes between government forces and armed opposition fighters. The clashes in the Northern corridor of West Darfur that took place in February 2008 are an example, where government forces' counter-attacks left scores of civilians dead and injured, leading to another wave of population movements as civilians fled the conflict. Other small-scale attacks by government backed Janjaweed militia on the markets of El Fasher and Kabkabiya in April 2008, in North Darfur, demonstrate that the militia have not been disarmed.⁴ There have also been a large number of attacks against humanitarian convoys by armed opposition groups and bandits, which has led to a 50 per cent reduction of food aid reaching Darfur⁵.

In light of this grave situation, it is very important that the Human Rights Council continues to monitor the implementation by the government of Sudan of the recommendations compiled by the Group of Experts on the human rights situation in Darfur in their first report, A/HRC/5/6 of 8 June 2007. Among the recommendations, Amnesty International considers of particular importance are those relating to the protection from summary executions, arbitrary detentions, disappearances, torture, as well as the protection of the civilian population and internally displaced people in Darfur. As recommended by the Group of Experts, the government must implement a plan to control and disarm the militia, to protect women and human rights defenders, and to improve accountability and justice.

In light of these grave and ongoing concerns, Amnesty International calls on the Human Rights Council to:

- Renew the mandate of the Special Rapporteur on the situation of human rights in Sudan; ensure sufficient resources to facilitate the work of the Rapporteur, and call for the full cooperation of the government of Sudan with the Rapporteur and the UN staff assisting her.
- Continue to call on the government of Sudan to implement, in full and without further delay, the outstanding recommendations of the Group of Experts on the situation of human rights in Darfur.
- Ensure the continued and effective monitoring of the implementation of the recommendation of the Group of Experts to the highest possible standard and ask the Special Rapporteur to report on the state of implementation to the tenth session of the Human Rights Council.

⁴ Amnesty International, Press Release, *Sudan: UN Security Council must censure government*, 11 April 2008

⁵ World Food Programme, Press Release, *Hijacking cut WFP food supplies for Darfur as funding shortfall threatens humanitarian air service*, 10 March 2008

General Debate: Oral statement on Zimbabwe, Georgia and Sri Lanka, 17 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080917am-eng.rm?start=00:40:17&end=00:43:38>

Delivered by Peter Splinter

Mr. President,

In its first two years, the Human Rights Council has spent a great deal of time on developing its institutions and working methods. Now it time to for this Council to give effect to the overriding purpose of these efforts by acting to address and to prevent violations of human rights. Amnesty International again urges the Council to delay no longer focussing on the many situations of human rights violations that demand the attention of the Council.

Today, Amnesty International draws the attention of the Council to three such situations: Zimbabwe, Georgia and Sri Lanka.

With regard to Zimbabwe, Amnesty International has corroborated evidence that violations of human rights that took place after the elections on 29 March were state-sponsored. Most of these were perpetrated by the so-called war veterans, ZANU-PF supporters, and also state security forces, although there were also reports of inter-party clashes. Accounts from a wide range of victims indicate that the perpetrators committed such violations with the consent or acquiescence of the state which in some cases even supported them with resources and other encouragement. In this way, the government created conditions of extreme insecurity in which opposition party activists, their family members, sympathisers and other government critics were at risk of abduction, torture and other ill-treatment, and killings. At least 165 people were killed and over 5,000 treated for injuries resulting from torture and other ill-treatment.

Amnesty International calls on the Council to urge the parties to the agreement signed on 15 September 2008 to address these serious violations and to ensure that the perpetrators do not escape justice through amnesties, pardons and similar measures of impunity. The victims of these violations, and their families, must be granted full reparations.

Mr President,

I am turning now to the situation in Georgia. Amnesty International is concerned about serious violations of international human rights and humanitarian law during, and in the aftermath of, the recent conflict between Georgia and the Russian Federation.

There are strong indications of indiscriminate attacks by both Georgian and Russian forces resulting in the death and injury of many civilians. Property of ethnic Georgians in and around the conflict zone has been extensively looted and destroyed by Ossetian paramilitary groups. Amnesty International calls on the Council to urge the authorities involved to end ongoing abuses and to ensure that all serious violations are thoroughly investigated and those responsible brought to justice.

Amnesty International continues to be concerned by the humanitarian and security situation for ethnic Georgians living in South Ossetia and the surrounding areas effectively under Russian control. The Council must demand that all parties ensure the necessary conditions for the voluntary, safe and sustainable return of those displaced in the course of the conflict.

Amnesty International urges the Council to remain seized of the human rights situation in the region and to encourage the government of Georgia to accept visits by relevant special procedures and the Russian government to cooperate with these bodies.

Finally, Mr President,

In Sri Lanka, violence and insecurity in the north eastern area of the Wanni has resulted in a humanitarian crisis with at least 150,000 civilians, many of whom are already displaced, are now trapped between the armed forces of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE). The government's decision on 8 September to bar all non-governmental agencies from the Wanni further threatens the protection of civilians.

The LTTE have repeatedly put civilians in harm's way. As the conflict has escalated they have resorted to strategies that flagrantly violate international humanitarian law, such as deliberate strikes against civilians in suicide attacks. In areas under LTTE-control freedom of movement has been blocked and child recruitment from IDP camps has increased.

In Sri Lanka, a climate of impunity for grave human rights abuses prevails amid continued reports of enforced disappearances and unlawful killings. As the state steps up its counter-terrorism measures, journalists increasingly come under attack. Under emergency regulations, the government uses sweeping powers to silence critics.

Amnesty International urges the Council to call on the government of Sri Lanka and the LTTE to uphold international human rights and humanitarian law. The establishment of a UN field operation with a strong monitoring mandate is now more urgent than ever.

Thank you Mr. President.

**Sri Lanka: A Crying Need to Protect the Rights of Internally Displaced Persons
(Written statement, UN index A/HRC/9/NGO/22)**

The Sri Lankan people continue to suffer from widespread and serious human rights violations, including enforced disappearance, extra-judicial executions, forced recruitment to military

groups and entrenched impunity for human rights violations in Sri Lanka. In this statement Amnesty International focuses on the widespread internal displacement and related severe problems of protection and assistance for the displaced persons triggered by the intensification of hostilities in and around the Vanni in northern Sri Lanka since May 2008. Amnesty International encourages the Human Rights Council to consider this situation carefully and to work with the Sri Lankan government to dispatch international monitors to support efforts to halt the deterioration in the country's human rights situation.

Internally displaced persons (IDPs) have particular needs and vulnerabilities that must be addressed by specific measures to protect their human rights. These measures are detailed in the Guiding Principles on Internal Displacement, which restate applicable international human rights and international humanitarian law.

The people of Sri Lanka continue to experience widespread displacement resulting from many years of internal armed conflict between the government security forces and the Liberation Tigers of Tamil Eelam (LTTE). The majority of those displaced are from the north and east. Tens of thousands more were displaced by the Indian Ocean Tsunami in 2004.

In its recent examination under the Universal Periodic Review (UPR), Sri Lanka accepted the need for measures to protect the rights of its displaced population. Among the recommendations made in the UPR Working Group and accepted by Sri Lanka were ones calling for measures to ensure the provision of assistance to displaced people and the protection of their human rights in accordance with international standards and for the protection of the human rights of persons providing aid to IDPs. Further recommendations about increased information sharing and consultation to ensure the rights of displaced people were also accepted. Sri Lanka also voluntarily committed to several initiatives to help protect the rights of displaced people. These include the implementation of an action plan for IDPs and conflict affected communities.

During the review, the government claimed that the IDP situation was not deteriorating. Reports received by Amnesty International contradict this claim. The current humanitarian crisis in the Vanni is a stark reminder of the gap between the fog of war and the reality for tens of thousands of families left without durable shelter.

An Emerging Crisis

Civilians in the north and east of Sri Lanka live in a highly insecure environment. Since May this year, government aerial bombardment and artillery shelling has forced more than 70,000 people to flee their homes, primarily in the Kilinochchi and Mullaitivu districts. The LTTE has hindered the ability of the displaced to move away from LTTE held areas.

This new displacement adds to the hundreds of thousands of persons who have been displaced in past and present conflict as well as by the 2004 tsunami. Families caught up in recent fighting often suffer multiple instances of displacement, perpetuating their situation of insecurity. At the time of writing, UNHCR has stopped releasing official figures, given the rapidly shifting security situation as the government and the LTTE engage in military

operations in the Kilinochchi districts. The lack of accurate data on newly displaced families shows the urgent need for independent monitors on the ground to provide accurate accounts of the human rights situation and the number of those affected.

The displaced populations experience serious and sustained violations of their human rights. The LTTE have hindered thousands of families from moving to safer areas by imposing a strict pass system. They sometimes force some members of families to stay behind while the others travel to government-controlled areas, to ensure the travelers return to the LTTE-controlled areas. The LTTE appears to use displaced populations as a buffer against government forces, in violation of international humanitarian law.

Families that have been able to leave LTTE-controlled areas are living in government-run temporary shelters, which are operating as de facto detention centers. For example, the government-run Kalimodai camp in the Mannar district is operating a pass system, which prevents more than 200 families from leaving without clearance from the security forces, except to attend school.

Challenges: Rights at risk due to restricted humanitarian access

Displaced people in Sri Lanka suffer a variety of human rights violations, including serious violence and widespread denial of economic and social rights. In many instances the conflict has destroyed infrastructure and livelihoods on which they depended.

Humanitarian agencies are facing serious difficulty accessing newly displaced populations, due to restrictions imposed by both the government and the LTTE. There is limited access into LTTE-controlled areas, and restrictions are imposed on goods going through Omanthai checkpoint and Kilinochchi town.

Getting goods into the Vanni, the site of some of the worst recent displacement, is a long and difficult process, requiring both government (Ministry of Defence (MOD)) and LTTE clearances. Changing and increasingly stringent MOD procedures cause delays and confusion. If and when clearance is received, the checking process is also very long. This leaves large quantities of humanitarian supplies stuck in Vavuniya. The transportation of those goods allowed to leave is very slow.

In early August 2008, aid agencies were forced to travel via long roundabout routes to areas where help is needed, requiring additional time and fuel. Agencies are further restricted to working between the hours of 8.30 am and 17.30 pm adding time pressures to the logistical obstacles. There is inconsistency in the treatment of agencies, with some agencies being granted better access than others. This places an increased burden on those agencies with better access, while assistance that is available from other agencies is held up by the government decision-making procedures.

Due to problems with access, newly displaced populations face particularly dire problems with lack of shelter as the rainy season approaches. At the height of the new emergency in the

Vanni in May, many families had to live in the open. International agencies have reported restrictions on the delivery of tarpaulin and cement.

The right to food of displaced people is also at risk. Sri Lanka is listed on the World Food Programme's global hunger hotspot list as of 21 August. According to humanitarian agencies, health authorities are struggling to meet the basic needs of the newly displaced. Malnutrition is emerging as a serious problem for small children due to the difficulties faced by food agencies in getting essential nutritional supplies to the displaced populations. The WFP also notes the limited livelihood opportunities due to multiple displacements and restrictions on importing materials into the Vanni - LTTE controlled northern districts.

There is lack of reliable information available from the ground. Journalists are restricted from reporting in the area, and reports from the government and the LTTE, as well as agencies working with the displaced population, are frequently contradictory and inconsistent.

This statement has drawn special attention to the escalating emergency in and around the Vanni. However, the government of Sri Lanka has a responsibility to ensure durable solutions for all IDPs. Amnesty International welcomes the initiative of the Human Rights Commission of Sri Lanka to present a draft law on protection of the rights of the IDPs for public discussion. The organization urges that the IDPs, including women, are consulted on the draft law and other decisions that affect them and are kept informed and involved at all stages of the process.

It is essential that the Human Rights Council continues to monitor respect for human rights in Sri Lanka, including the situation of IDPs. In particular, Amnesty International urges the Human Rights Council to call on Sri Lanka to:

- grant immediate and unrestricted access to all humanitarian agencies to the Vanni and other areas where displaced people are in need of humanitarian assistance;
- lift all restrictions on access to health and food supplies and allow humanitarian agencies to provide essential supplies to affected populations;
- respect the right to equality and non-discrimination at all stages of displacement, including relief, transitional shelter, resettlement and return;
- allow access to conflict-affected zones for journalists and human rights organizations;
- authorize an independent, international human rights monitoring presence on the ground without delay.

Amnesty International also urges the Council to follow the implementation by the government of recommendations and commitments related to IDPs arising from its review under the UPR.

Amnesty International calls upon the Council to condemn the LTTE's use of civilian populations as shields and its restrictions on their ability to move to areas of safety.

ITEM 6 – UNIVERSAL PERIODIC REVIEW

General debate: Oral statement, 18 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080918pm-eng.rm?start=02:04:29&end=02:07:33>

Delivered by Marianne Lilliebjerg

Thank you Mr President,

Amnesty International welcomes the statements this afternoon by States on steps taken to give effect to the recommendations and commitments made during their review under the Universal Periodic Review (UPR).

We take this opportunity to offer some reflections on how the UPR mechanism is developing. It is a work in progress which, over time, can be made more effective as a mechanism of the Council to give effect to its mandate to promote and protect human rights.

The first objective of the UPR, as spelled out in Resolution 5/1, is the improvement of the human rights situation on the ground. This requires that the UPR is firmly rooted at the national level. The UPR must function as a catalyst for a national process, both within government and with civil society, to continuously review the situation of human rights and strengthen measures for their protection.

Leading into the first two rounds of review, many of the reviewed states held consultations with civil society in the preparation of their national report. This good practice must be nurtured and developed as the UPR process grows. Amnesty International encourages all states coming up for review to hold broad and inclusive consultations [and to ensure that in doing so they reach parts of civil society that do not usually have access to governmental decision-makers, such as the poor, minorities and, too often, women.]

Broad and inclusive consultations *after* the dialogue in the UPR Working Group are equally important. [The review will have resulted in a set of recommendations and in most cases also a set of commitments by the reviewed state.] The recommendations accepted and commitments made in the review should be included in a national human rights plan to ensure their implementation and be monitored in a process that facilitates the effective contribution from civil society.

Mr President,

Although the UPR is much more than the interactive dialogue in the UPR Working Group, this dialogue is a key element of the review process. The dialogue must focus on the key human rights challenges in the state under review. States participating in the dialogue must ensure that they formulate their interventions so that recommendations are easily identified. Amnesty International expects that, over time, the inter-active dialogue will increasingly be based on sound analysis of the situation in the country under review. The dialogue should be more dynamic with interventions building on and deepening one another. As the UPR develops, states could facilitate this by clustering the key issues for discussion. The recommendations

resulting from the dialogue must be clear and well-conceived and aimed at strengthening respect for human rights.

Transparency is a key principle of the UPR. Following the interactive dialogue, the reviewed state's acceptance, or not, of the recommendations made in the course of the dialogue should be unambiguous. The state's written response to the issues raised and recommendations made in the Working Group should be available well before the discussion by the Council of the adoption of the outcome of the review.

In the course of the UPR process, a wealth of information related to the situation of human rights in all UN Member States is produced and compiled. This information could usefully bring a human rights perspective to other discussions taking place in the UN system. The Peacebuilding Commission should make use of the information of the UPR process.

Thank you Mr President.

ITEM 8 – FOLLOW-UP AND IMPLEMENTATION OF THE VIENNA DECLARATION AND PROGRAMME OF ACTION

General debate: Oral statement on the human rights situation of the “erased” in Slovenia, 19 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080919am-eng.rm?start=01:19:44&end=01:23:10>

Delivered by Peter Splinter

The Vienna Declaration and Program of Action (VDPA)⁶ emphasized the importance of sufficient and effective remedies for victims of continuing human rights violations.

Amnesty International is concerned at the human rights situation of the residents of the former Yugoslav republics who had been living in Slovenia and whose permanent residency status was illegally and discriminatorily revoked by the Slovenian authorities in 1992. (These persons are the so-called “erased”).

The move has affected 18,305 persons who until today continue to be affected by the negative consequences of the erasure, even though some of them managed to regulate their status since 1992.

In the written statement submitted for this session Amnesty International documented how the action of the Slovenian authorities has violated the principle of non-discrimination; right to work and social security; right to the highest attainable standard of physical and mental health and the right to education of the erased people.

⁶ Part I, para. 29

Becoming a member of the Human Rights Council, Slovenia obliged itself to “uphold the highest standards in the promotion and protection of human rights”. Amnesty International is concerned that now well into its term of membership, the situation of the “erased” shows that that Slovenia is far from fulfilling this obligation.

Amnesty International condemns the deliberate avoidance of the problem by the Slovenian authorities over many years - despite several recommendations urging them to act promptly to restore the rights of the erased, made by different international human rights bodies including by the UN Human Rights Committee, the UN Committee on Economic, Social and Cultural Rights and various bodies within the Council of Europe framework.

The authorities of Slovenia have also violated Slovenia’s own Constitution. They have failed until today to implement two separate decisions on the issue by the Slovenian Constitutional Court.

The government of Slovenia, in contradiction with the decisions of the Constitutional Court, initiated a drafting process of a constitutional law which if adopted in its proposed shape will further aggravate the disadvantaged position of the “erased”. The proposed law provides the possibility to revise decisions on individual cases where permanent residency has already been restored, and fails to retroactively restore the status of permanent residents of all the “erased”. It also disclaims responsibility by state bodies for the “erasure”, and it explicitly excludes the possibility of compensation for the human rights violations suffered by the “erased”.

Since independence Slovenia has become a prominent member of the international community and only in the last three years chaired the Presidency of the European Union as well as the Organization for Security and Co-operation in Europe. In 2009 the country will be chairing the Council of Europe, the most prominent European human rights institution.

In these circumstances the conduct of the Slovenian authorities and their lack of political will to resolve the outstanding human rights concerns send a very negative message to the whole international community.

We welcome that earlier today that Slovenia acknowledged the need to improve its human rights situation.

With this in mind, Amnesty International emphasizes the need for the Slovenian authorities to, as a matter of urgency:

- Withdraw the draft Constitutional Law from the parliamentary procedure
- Undertake immediate steps to implement the decisions of the Constitutional Court
- Adopt legislative and other measures to grant full reparation, including restitution, satisfaction, compensation, rehabilitation and guarantees of non- repetition, to all the erased.

Thank you Mr President.

Slovenia: Amnesty International's Briefing to the United Nations Human Rights Council about the "erased" (Written statement, UN index: A/HRC/9/NGO/23)

Amnesty International is concerned at an ongoing violation of human rights of the residents of the former Yugoslav republics who had been living in Slovenia and whose permanent residency status was revoked by the Slovenian authorities in 1992 (so called "erased").

The organization points out to the violations of the principle of non-discrimination; right to work and social security; right to the highest attainable standard of physical and mental health and the right to education of the erased which occurred as a result of the revocation of their permanent residency status.

Amnesty International observes that the authorities have failed to provide the erased with full reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition for the aforementioned human rights violations.

A number of international human rights bodies urged the authorities of Slovenia to restore retroactively the permanent residency status of the erased and to provide them with full reparation.

In two separate decisions the Slovenian Constitutional Court found measures taken by the authorities to regulate the status of the erased unconstitutional.

Overview of the problem

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

On 26 February 1992, at least 18,305 individuals were removed from the Slovenian registry of permanent residents and their records were transferred to the registry of foreigners. Those affected were not informed of this measure and its consequences. As a result of the "erasure", they became de facto foreigners or stateless persons illegally residing in Slovenia. In some cases the "erasure" was subsequently followed by the physical destruction of the identity and other documents of the individuals concerned. Some of the "erased" were forcibly removed from the country.

To date approximately 6,000 remain without Slovenian citizenship or a permanent residence permit. Many of them live "illegally" as foreigners or stateless persons in Slovenia. The remaining 12,000 people, who managed to obtain Slovenian citizenship or permanent

residency, are often still suffering from the ongoing consequences of their past unregulated status and have no access to full reparation, including compensation.

Violation of human rights caused by the erasure

Principle of non-discrimination

The revocation of the permanent residency status of citizens of other former Yugoslav republics who had been permanent residents in Slovenia was conducted in a discriminatory manner as all other foreigners originating from other than former Yugoslav countries were automatically granted the right to reside permanently in Slovenia.

The “erasure” and the subsequent and ongoing failure to regulate the status of the “erased” have disproportionately affected Roma. “Erased” members of Romani communities, by virtue of their condition of minority without a “kin-state”, were placed in an even more disadvantaged position than “erased” belonging to other ethnic groups, as they have faced greater difficulties in regulating their status elsewhere in the former Yugoslavia.

Right to work and social security

Many of the “erased” lost their job and could no longer be legally employed as a consequence of the revocation of their permanent residency status. In this respect, the removal of the individuals concerned from the registry of permanent residents led to a violation of the right to work.

Many of the “erased” are still unable to find a job because they have no documents, or are otherwise considered foreigners with no right to work. They face the choice between being unemployed and therefore with no source of income and being employed in the “informal sector”, with low salaries and no social protection. In those cases where the “erasure” and the loss of employment led to extreme poverty, the removal of the individuals concerned from the registry of permanent residents may amount to a violation of the right of everyone to an adequate standard of living.

In cases where the “erasure” resulted in the loss of employment, this often meant the loss of many years of pension contributions. As a result, many “erased” lost their entitlement to a pension, or saw their (expected) pension significantly reduced even if eventually they managed to regulate their legal status. Therefore the removal from the registry of permanent residents has had serious negative effects on the right to social security of the persons in question.

Right to the highest attainable standard of physical and mental health

As foreigners with no permanent residence permit in Slovenia, the “erased” have had no, or limited, access to comprehensive healthcare after 1992, in some cases with serious consequences for their health. The ex officio removal from the registry of permanent residents thus resulted in inequality in the ability to access healthcare.

Right to education

Children removed from the registry of permanent residents in 1992, or whose parents were removed from the registry, in some cases lost access to secondary education.

While Amnesty International notes that no recent cases have been reported of children being excluded from school as a result of the “erasure”, concerns remain about the ongoing effects for some of the “erased” of the loss of years of education, and of the delays in the completion of their studies.

Failure to resolve the problem

In 1999 the Slovenian Constitutional Court recognized the unlawfulness of the “erasure” and ruled that provisions in the Foreign Citizens Act violated the Constitution for failing to determine the conditions for the acquisition of permanent residence permits by citizens of other former Yugoslav republics living in Slovenia who did not apply for Slovenian citizenship, or were refused it.⁷ In this respect, the Constitutional Court ruled that the Foreign Citizens Act violated the constitutional principle of the rule of law and the principle of equality. The Slovenian Constitutional Court also recognized that the “erasure”, in those cases where it led to the expulsion of the individuals concerned, resulted in the violation of other human rights and freedoms protected in the Constitution and under international law. The Constitutional Court therefore ordered that adequate legislative measures be adopted to regulate the status of the “erased”, taking into account the ongoing consequences of their removal from the registry of permanent residents.

In 1999 the Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia was adopted and in 2002 amendments to the Act on Citizenship entered into force. In both cases the legislative efforts failed to restore permanent residence retroactively, thus excluding from its reach those who were expelled from Slovenia, and/or prevented from entry or re-entry into Slovenia, as a result of the “erasure”. For this reason in 2003 a new decision of the Slovenian Constitutional Court found the Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia unconstitutional. The Constitutional Court once again ruled that permanent residence permits be issued with retroactive effect from the date of the “erasure”.

Following the ruling of the Constitutional Court, a “technicalities bill”, the first of two acts aimed at reinstating the status of individuals removed from the population registry, was adopted by the Slovenian parliament in October 2003. Debates on a second bill continued, prompting the then opposition parties to call for a referendum on the “technicalities bill”. The referendum was held in April 2004. With the turnout around 31 per cent approximately 95 per cent of those who voted rejected the bill.

On 30 October 2007 the government presented to the parliament a draft Constitutional Law which was intended to resolve the status of the “erased” and the parliamentary discussion on the law is ongoing in the Constitutional Committee of the parliament.

Amnesty International is concerned that in its present form the draft law continues to violate the human rights of the “erased” and further aggravates their disadvantaged position. It maintains discriminatory treatment of the “erased”, provides new legal grounds for more

⁷ Constitutional Court of the Republic of Slovenia, Decision in case no. U-I-284/94, 4 February 1999.

discriminatory actions by the authorities, including the possibility to revise decisions on individual cases where permanent residency has been restored, and fails to retroactively restore the status of permanent residents of all the “erased”. The draft also disclaims responsibility by state bodies for the “erasure” and explicitly excludes the possibility of compensation for the human rights violations suffered by the “erased”.

Amnesty International’s recommendations to the Slovenian authorities

As a matter of urgency Amnesty International calls on the Slovenian authorities to:

- Withdraw the draft Constitutional Law from the parliamentary procedure
- Undertake immediate steps to implement the decisions of the Constitutional Court
- Ensure that legislative and other measures are adopted, granting full reparation, including restitution, satisfaction, compensation, rehabilitation and guarantees of non-repetition, to all individuals affected by the “erasure”.

Annual discussion on the integration of a gender perspective in the work of the Human Rights Council: Joint oral statement with Human Rights Watch (HRW), 12 September 2008

Video Link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080912am-eng.rm?start=01:34:45&end=01:37:40>

Delivered by Philippe Dam (HRW)

Mr. President,

I am making this statement on behalf of Human Rights Watch and Amnesty International.

The Council has rightly committed to an integration of the gender perspective into all of its work and processes, and to an annual evaluation of this process. While gender integration is much talked of in many parts of the UN system, there are few opportunities for transparent, explicit, and open evaluation of this essential process. We congratulate the Council on taking this additional step. The recommendations and conclusions from this session and that held during the 6th session should inform both the work of the Special Procedures and the manner in which the Council engages with them.

We agree with many of the previous speakers that effective gender integration is about both content (what are we talking about) and about format (who are talking and what are they saying). As the Committee on the Elimination of Discrimination against Women has noted, “Policies developed and decisions made by men alone reflect only part of human experience and potential.”⁸ Such policies and decisions are less likely to take account of gendered consequences, and the economic and social factors that affect women’s lives. In this regard, we support fully the recommendations made by the panelist representing civil society on the

⁸ CEDAW General Recommendation 23: Political and Public Life, para. 13.

issues of country visits, communications, dialogue, and capacity building, and agree with his critical reflections on the overarching methodology of gender integration.

Mr. President,

We would like to highlight one issue regarding gender integration that, while mentioned in passing by some of the panelists, cannot be overstated.

It is clear from our research and experience that sex or gender inequality is a problem experienced primarily by women. It is also clear that the systems and assumptions which cause women's inequality in the enjoyment of their human rights are often invisible because they are deeply embedded in social relations, both public and private, within all States. Acknowledging this systemic and entrenched discrimination is an essential step in gender integration and requires conscious and explicit deliberations even in the choice of themes to be taken up by the Special Procedures. In this sense, the Council must be aware that when it chooses to set up Special Procedures on human rights issues that affect men and boys more frequently than women and girls (or vice versa), that choice is not gender neutral. It is a gendered choice and should be evaluated and explained as such. Where enforced disappearances or extrajudicial executions occur with frequency, for example, men are often more likely than women to be targeted for those abuses—largely because men have been more visibly present in public and political life. Those who are left behind to struggle for justice are often, but by no means exclusively, women. The gendered aspects of these violations and who they victimize does not, of course, make them less important. It is, however, important for the Council and for its Special Procedures explicitly to acknowledge the different impact of human rights violations on men and women, and to analyze their root causes (including discrimination based on sex or gender).

Equally, the Council should evaluate the gendered choices it makes after these procedures are established. As we have seen today, this evaluation (where it happens) generally happens only where the work of the Special Procedures has focused on human rights issues that affect women and girls exclusively or predominantly. Rarely will the Council question the failure of one of its Special Procedures in exploring women's particular vulnerability to, for example, social and economic deprivation in conflict and post-conflict situations, and where economic sanctions are imposed. Rarely will it question the traditional, historical, religious or cultural attitudes that are used to justify and perpetuate discrimination against women in the delivery of the specific human rights issues explored by its Procedures. These omissions have been most pronounced in country-specific mandates, where otherwise well-researched and thoroughly analyzed reports will make only fleeting reference to the differential impact of conflict or hardship on women.

Mr. President, this needs to change. The Council should see the work of its Special Procedures as an opportunity to learn about all aspects of the themes explored, including their differential impact on women and men. We look forward to a more explicit analysis and engagement with those aspects of the Procedure's work in this respect.

Finally, Mr. President, civil society has on several occasions brought to the Council's attention protection gaps within the Special Procedures system. In this regard, the suggestion has been made that there is a real need for a Special Procedure to explore and combat laws that discriminate against women. We very much support this suggestion and believe such a procedure would contribute substantively to the gender integration of the work of the Council and its Special Procedures.

ITEM 10: TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

Questions for interactive dialogue with Akich Okola, Independent Expert on the situation of human rights in Burundi and Charlotte Abaka, Independent Expert on technical cooperation and advisory services in Liberia, 23 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080923pm-eng.rm?start=01:42:08&end=01:45:47>

Delivered by Evelyne Schmid

Thank you Mr President.

Mr Okola,

Amnesty International welcomes the work you have carried out as the Independent Expert on Burundi and recalls the great importance that Burundian civil society organisations attach to your mandate. We also welcome the government's cooperation with you to date and urge it to support the renewal of your mandate.

[There remain significant threats to the enjoyment of human rights in Burundi.] The security situation remains fragile despite the resumption of peace negotiations between the government of Burundi and National Liberation Forces (*Palipehutu-Forces nationales de liberation*, FNL). Divisions within the ruling party, the National Council for the Defense of Democracy – Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD), and between the ruling party and opposition parties, have paralyzed the working of the Burundian National Assembly. [Insecurity is also exacerbated by the widespread presence of small arms, a weak economy, high levels of crime and recently demobilized combatants.]

Widespread human rights violations are regularly committed by state and non-state actors. Impunity remains the norm. Progress in establishing a truth and reconciliation commission and a special tribunal has been slow. The Gatumba massacre has not been fully investigated. The perpetrators of the Muyinga massacre have not been brought to justice. The Burundian authorities are still failing to investigate and punish rape and sexual violence.

Mr Okola,

As you have stated in your report the establishment of a national human rights commission is under consideration [but the law on the mandate, composition and functioning of the commission, is still being discussed by the Burundian government.] At this stage there is no guarantee that a future commission will be in line with the Paris Principles. This is rather concerning. Mr Okola: what assurances have you received from the government that the draft law enabling the commission is in line with the Paris Principles? Furthermore, given the current political context, do you expect that the law will be approved by 2009 as specified in the Poverty Reduction Plan?

Mr President,

Only a year ago, Burundi asked this Council to extend the mandate of the Independent Expert until national institutions charged with protecting and promoting human rights had been put in place. An independent human rights commission, in line with the Paris Principles, has not yet been established. We urge this Council to renew the mandate of the Independent Expert to allow it to continue to monitor implementation of its recommendations, including those on the compliance with the Paris Principles of a future national human rights commission.

Mr. President,

[Amnesty International regrets Liberia's decision not to support the renewal of the mandate of the Independent Expert on Liberia.

Amnesty International feels that the renewal of the Independent Expert's mandate is critical for continued support for the government's efforts to promote and protect human rights in Liberia. Some of our concerns in the country are reflected in Ms. Abaka's report.] In Liberia, we are especially concerned with the lack of an action plan to address impunity for crimes committed during the conflict, as well as the recent regression with regard to the death penalty.

We are concerned about the slow progress with regard to the establishment of an Independent National Commission on Human Rights. Among its many responsibilities, the Commission would serve as the follow-up institution to ensure the eventual implementation of the Truth and Reconciliation Commission's (TRC) recommendations. [The TRC is mandated to recommend the next steps for the prosecution of those responsible for crimes under international law that took place during the 14 years of conflict in Liberia.]

The poor state of the judiciary in Liberia results in many trials being conducted in violation of fair trial standards. This is of particular concern to Amnesty International in light of recent demands to apply the death penalty. The death penalty is inconsistent with Liberia's international legal obligations under the Second Optional Protocol of the ICCPR. There is also clear evidence that it is not an effective deterrent. [The moratorium on the application of the death penalty must be maintained.] Amnesty International recommends that the death penalty be removed from the statute books and the judiciary be strengthened to deal with all crimes. Amnesty International calls on this Council to renew the mandate of the Independent Expert on Liberia.

Thank you Mr. President.

Review, rationalization and improvement of the mandate of the Special Representative of the Secretary General for Human Rights in Cambodia: Joint oral statement with HRW, 15 September 2008

Video link: <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080915pm-eng.rm?start=01:13:27&end=01:15:24>

Delivered by Julie De Rivero (HRW)

Amnesty International and Human Rights Watch call on the Human Rights Council members to extend the mandate of the Secretary General's Special Representative for Human Rights in Cambodia.

The systemic lack of protection for human rights in Cambodia is a consequence of impunity, the absence of the rule of law and the seriously stunted legal and judicial reform. The government continues to demonstrate its unwillingness to seriously address human rights.

Although marked improvements have taken place since the first resolution on Cambodia by the Commission on Human Rights was adopted in 1993, Cambodia's failure to institutionalize human rights protection – through the legal system, the government administrative structures, and independent institutions – testifies to the need for continued UN engagement. Key to such an engagement is the SRSG's independent and authoritative assessments of the human rights situation for the international community through the Human Rights Council, as well as the SRSG's recommendations to bring about improvements, support for human rights defenders, and cooperation with and technical assistance to the Cambodian government.

Lack of integrity and independence within the court system sits at the centre of Cambodia's current human rights problems. Forced evictions further impoverish the marginalized, who are routinely deprived of redress. Violence against women goes unpunished. Freedoms of expression and association are compromised and human rights defenders, opposition journalists, and community activists defending land and natural resources are increasingly imprisoned on baseless charges, physically attacked, or murdered. The perpetrators are rarely brought to justice.

The 1991 Paris Peace Accords recommended the establishment of the Special Representative, whose mandate includes protecting and promoting human rights. Until the Cambodian government implements concrete reforms needed to establish an independent judiciary and other independent institutions to provide checks and balances on the government it is crucial that the Special Representative's mandate be continued. To end or reduce the mandate's reporting function will deprive Cambodians of the international oversight essential to achieving the effective promotion and fulfilment of the human rights to which they aspire and deserve.

Thank you Mr President.

All video links of oral statements have been extracted from the United Nations Webcast⁹ .

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⁹ <http://www.un.org/webcast/unhrc/index.asp>