

# AMNESTY INTERNATIONAL

## Public Statement

AI Index: MDE 16/006/2005 (Public)

News Service No: 210

4 August 2005

### **Jordan: Why the US impunity agreement is illegal**

This week the Jordanian Senate decided to support the ratification of an agreement with the USA granting US nationals impunity for crimes under international law, including, genocide, crimes against humanity and war crimes. In doing so, members contended that the agreement is consistent with the International Criminal Court's Statute.

Only two weeks earlier, the Chamber of Deputies rejected the agreement as incompatible with Jordan's obligations under international law, a decision which Amnesty International publicly welcomed. As a result of the disagreement the two bodies will now seek to resolve the issue. It is essential that the Senate joins the Chamber of Deputies in rejecting the illegal agreement.

The Senate's claim that the agreement is consistent with the ICC's Statute and international law is seriously flawed. Jordan, as a state party to the Rome Statute, the Genocide Convention, the Geneva Conventions, the Convention against Torture and under other international law, is under an obligation to bring those suspected of crimes under international law to justice. Ratifying an agreement committing Jordan to exempt the nationals of one country from justice is an obvious and serious violation of these obligations.

The agreement Jordan has signed goes significantly further than refusing to surrender US nationals to the International Criminal Court. It is designed to provide absolute impunity for US nationals from all courts, including, Jordanian courts. In particular, the USA has steadfastly refused to include any guarantee in the agreements signed with other states that the US will investigate and prosecute persons accused of crimes who are returned to the USA and it does not define crimes against humanity and certain other crimes as crimes under US law. In the event that the USA does nothing, there is no requirement that it must re-extradite the person to Jordan for prosecution or to surrender them to the International Criminal Court.

The result could include that Jordan would be unable to investigate and prosecute US nationals accused of crimes committed on Jordan's territory or against Jordanian nationals.

The Senate is wrong to argue that there is provision for such agreements in the ICC's Statute. Article 98 of the ICC's Statute relates to status of forces agreements (SOFAs) existing at the time the Statute was created. SOFAs allocate jurisdiction between two states – they do not seek to exclude jurisdiction altogether as this agreement does.

It is for these reasons that many states and the EU, which has issued a legal memorandum confirming the unlawfulness of impunity agreements, have refused to enter into such agreements with the USA. Jordan which has been among the strongest supporters of the International Criminal Court, must

join other states in upholding the new system of international justice.

In supporting the agreement, the Senate has stated that it would serve "Jordan's higher interests". On the contrary, it would undermine the rule of law and preserve a system of impunity that has contributed to the killing and suffering of millions of people in the Middle East and other regions of the world over the last half century. Surely, Jordan's higher interest is to work towards confining these crimes to the past.