

## 2005 World Summit:

### **Unique opportunity to strengthen the three pillars of the United Nations – development, security and human rights**

#### **Introduction**

*"... the summit meeting in September 2005 will be an event of decisive importance. The decisions to be taken at the meeting may determine the whole future of the United Nations. Even more important, they will offer us our best – perhaps our only – chance to ensure a safer, more just and more prosperous world in the new century"*

UN Secretary-General Kofi Annan(1)

The High-level Plenary Meeting of the United Nations (UN) General Assembly (the 2005 World Summit) will take place in New York, from 14 to 16 September. The Summit, in which an unprecedented number of Heads of State and Government will participate, represents a unique opportunity for UN member states to take decisive action to address some of the most important issues before the international community, including reducing poverty, strengthening collective security, and enhancing the protection of human rights. In addition to reviewing implementation of the Millennium Declaration(2) and overcoming the obstacles in reaching the Millennium Development Goals (MDGs)(3) by the target date of 2015, governments attending the 2005 World Summit will have the opportunity to put in place much needed reform of the UN, in particular measures to protect human rights.

The UN Millennium Declaration seeks to capture the aspirations of the international community for the new century. It recognizes and seeks to operationalise the inter-dependence of measures to achieve realisation of human rights, peace and security. In adopting this Declaration, states committed to ensuring protection and fulfilment of civil, cultural, economic, political and social rights in their efforts to promote development, and to address other threats such as environmental degradation and discrimination against women.

At the 2005 World Summit, governments will also consider the wide range of recommendations put forward by the Secretary-General in his report, *"In larger freedom: towards development, security and human rights for all"*, published in March 2005.(4) In this important report, the Secretary-General makes a strong argument for recognizing human rights as the third pillar of the UN, along with development and security. The report makes wide-ranging proposals to governments to strengthen the UN ranging from extending membership of the Security Council to make it more representative, to scaled-up commitments to achieve the 0.7 per cent Official Development Assistance target before 2015, to establishing a Peacebuilding Commission and

transforming the Commission on Human Rights into a higher-level, standing Human Rights Council.

The 2005 World Summit is expected to adopt an Outcome Document detailing action governments commit to take in the area of human rights, development and security. Amnesty International considers it essential that the text adopted is strong and authoritative on human rights, that it reflects a holistic and integrated vision of human rights encompassing their economic, social and cultural as well as their civil and political dimensions, and that the commitments in this document are based on states' obligations under international human rights, humanitarian and refugee law. The Outcome Document should also reaffirm the centrality of gender equality to human rights, development and security, and ensure that the commitments in the Beijing Platform for Action and in the Convention on the Elimination of All Forms of Discrimination against Women are fully integrated, as was decided by governments when reviewing the implementation of the Beijing Declaration and Platform for Action in February 2005.(5)

#### **Amnesty International recommends that governments:**

- **Adopt an Outcome Document at the 2005 World Summit that is strong on human rights and gives human rights, as one of the three pillars of the UN, prominence throughout the text;**
- **Ensure that the pledges arising from the Summit, as well as their implementation at the national level, are firmly based on a commitment to promote and protect human rights for all.**

Below Amnesty International makes specific observations and recommendations to governments for consideration and action before and at the Summit and for the implementation of commitments undertaken at the national level. The order in which issues are addressed in this document reflects the order in which issues are presented in the latest draft of the Summit Outcome Document available at the time of writing.

#### **Implementation of the Millennium Development Goals**

*"Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of fundamental human rights, the right to dignity and a decent life....I say to all those leaders: do not look the other way; do not hesitate. Recognize that the world is hungry for action, not words. Act with courage and vision."*

Nelson Mandela, speaking at a "Make Poverty History" event in London, 2005

Like the Millennium Declaration, the Millennium Development Goals (MDGs) aim to realize the inter-dependence of human rights, peace and security and

to ameliorate global social conditions. Their implementation, through national strategies, should be placed firmly within a human rights framework, taking full account of the national and international human rights obligations of the states concerned. These should form the context for monitoring progress in achieving the MDGs, as a step towards the realization of a range of fundamental human rights essential to human development.(6) In this regard, Amnesty International welcomes the recommendations in the report by the Special Adviser to the UN High Commissioner for Human Rights on the Millennium Development Goals, specifying how the human rights framework can enhance the effectiveness of the MDG initiative, both in its conceptualization and implementation.(7)

Monitoring of progress towards achieving the MDGs at the national level should involve the participation of civil society, including human rights organisations and institutions, and should, to the extent possible, be based on reliable data, disaggregated according to sex, gender, race, ethnic or national origin and other relevant grounds of non-discrimination in order to ensure that progress towards the achievement of MDGs does not mask patterns of injustice.(8)

The MDGs themselves reaffirm the urgent need to realize essential minimum levels of economic, social and cultural rights and to take steps to eliminate discrimination against women. As such they should be viewed in the context of states' international human rights obligations, notably under the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the International Convention on the Elimination of All Forms of Racial Discrimination. The respective treaty monitoring bodies have provided indicators and benchmarks for assessing compliance with these obligations which provide useful tools for the implementation of the MDGs.

With regard to the elimination of discrimination against women, national strategies to achieve the MDGs must include clear commitments to women's right to education, health, reproductive rights, secure tenure and housing rights as well as their right to work. Violence against women continues to be a key obstacle to their enjoyment of these rights.

**Amnesty International recommends that governments:**

- **Ensure that national strategies for the implementation of the MDGs are based on obligations under international human rights standards, including those on economic, social and cultural rights;**
- **Strengthen domestic legislation to realize the provisions contained in these standards and the MDGs; and**

- **Establish transparent monitoring and evaluation mechanisms for implementation with effective participation by civil society.**

### **Ensuring gender equality and protection of women's human rights**

*"[Governments] emphasize that full and effective implementation of the Beijing Declaration and Platform for Action is essential to achieving the internationally agreed development goals, including those contained in the Millennium Declaration, and stress the need to ensure the integration of a gender perspective in the high-level plenary meeting on the review of the Millennium Declaration."*

Declaration issued by the Commission on the Status of Women  
at its 49th session, February 2005

Violence against women is one of the most glaring manifestations of gender inequality as well as a universal factor entrenching discrimination against women. It is a particularly grave violation because of the range of rights it violates simultaneously. (9) As documented by Amnesty International in its campaign to Stop Violence against Women, launched in 2004, women face violence at the hands of both state and non-state actors and across boundaries of class, race and culture.(10) Armed conflict leads to an increase in all forms of violence, but rape and other forms of sexual violence are often used as a weapon of war in order to dehumanize women and persecute their communities. Women and children are likely to form the greater proportion of the civilian population killed in war and are also usually the majority of refugees and internally displaced persons forced to flee because of conflict. Despite a clear prohibition of violence against women in the framework of state obligation within international human rights, humanitarian and criminal law, women continue to experience gender-based violence on a massive scale.(11) The challenge is now with states to implement these obligations in full and without delay.

The denial of women's sexual and reproductive rights(12) is a major factor in the persistence of violence against women. Gender-based violence can also have devastating consequences for women's sexual and reproductive health. The trauma of rape and other sexual violence extends far beyond the attack itself. Being publicly identified as a rape victim can severely damage a woman's status within her community and the lack of access to adequate sexual and reproductive health services further compounds the impact of rape, especially when a woman becomes pregnant as a result of having been raped.

Sexual violence against women, and in particular rape, contributes to the spread of the HIV/AIDS virus and undermines global efforts to contain it. Many women lack information about and access to HIV prevention measures and to healthcare, including support and medication after infection. Respect for women's human rights, without discrimination, is central to an effective

response to HIV/AIDS.

The groundbreaking Security Council Resolution 1325 on women, peace and security, adopted in October 2000, calls for special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual violence, the inclusion of a gender perspective into peacekeeping operations, and increased participation by women at all levels of decision-making regarding the prevention, management, and resolution of conflict. It is essential that its implementation be accelerated and deepened in line with the growing understanding of the vital role of women in peace processes and post-conflict reconstruction efforts.

In March 2005, at the 49th session of the Commission on the Status of Women, governments reaffirmed the commitments made ten years earlier in the Beijing Declaration and Platform for Action.<sup>(13)</sup> These commitments include taking integrated action to prevent and eliminate violence against women, and studying the causes and consequences of violence against women. The eradication of violence against women demands the empowerment of women and the elimination of discrimination in all spheres of their lives, including in the economic and social domain. It also requires the promotion and protection of women's sexual and reproductive rights and the recognition that women have the right to have control over and decide freely on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Governments are called upon to exercise due diligence to prevent, investigate and punish acts of violence, to enact and review domestic legislation accordingly, and to provide women with access to justice.<sup>(14)</sup>

**Amnesty International recommends that governments:**

- **Reaffirm the centrality of gender equality to development, security and human rights and take concrete steps to achieve gender equality and honour the commitments made in the Beijing Declaration and Platform for Action;**
- **Take effective measures to implement obligations under international law to end violence against women, including through exercising due diligence to prevent, investigate and punish all acts of violence against women;**
- **Promote and protect the sexual rights and reproductive rights of all women, including their right to have control over and decide freely and responsibly on matters related to their sexuality, and their access to comprehensive and confidential health services; and**
- **Ensure full and speedy implementation of Security Council Resolution 1325.**

## The need for an Arms Trade Treaty

*"The death toll from small arms dwarfs that of all other weapons systems - and in most years greatly exceeds the toll of the atomic bombs that devastated Hiroshima and Nagasaki. In terms of the carnage they cause, small arms, indeed, could well be described as 'weapons of mass destruction'. Yet there is still no global non-proliferation regime to limit their spread."*

UN Secretary-General Kofi Annan(15)

Uncontrolled proliferation, transfer and misuse of conventional arms have a devastating effect on human rights. Current international standards to control international transfers of conventional arms are inadequate, and many governments continue to supply weapons to parties who use them to commit serious human rights abuses. Uncontrolled transfers of arms are fuelling conflicts and crime, undermining conflict-resolution efforts, derailing development and engendering poverty.

Amnesty International, the International Action Network on Small Arms and Oxfam International have joined together in the *Control Arms Campaign* to propose the adoption of an international Arms Trade Treaty. Such a treaty would enshrine a set of core, common principles for state responsibility in arms transfers, and would help curb the flow of arms to those who would use them to commit serious abuses of international human rights and humanitarian law.

Under the proposed Arms Trade Treaty, states would be required to establish national mechanisms to authorize international transfers of arms, ban the transfer of arms that could be used to seriously violate international human rights and humanitarian law, and refrain from selling arms that could have an adverse impact on sustainable development or regional peace and security.

### Amnesty International recommends that governments:

- **Agree to develop a legally binding instrument – an Arms Trade Treaty -- to regulate the transfer of arms in accordance with states' obligations under international law, including international human rights and humanitarian law.**

### Protection of human rights while countering terrorism

*"The United Nations must continue to insist that, in the fight against terrorism, we cannot compromise the core values I have listed. In particular, human rights and the rule of law must always be respected. As I see it, terrorism is in itself a direct attack on human rights and the rule of law. If we sacrifice them in our response, we will be handing a victory to the terrorists."*

UN Secretary-General Kofi Annan(16)

Amnesty International condemns unreservedly the deliberate killing of civilians and the use of torture, hostage-taking and indiscriminate attacks whoever the perpetrator and whatever the motive. For many years Amnesty International has called for the perpetrators of such abuses to be brought to justice and has welcomed the development of international justice mechanisms through which armed groups operating with impunity can be held to account. The organization supports proposals to agree on a definition of terrorism provided it is precisely defined and accords with international human rights standards.

Amnesty International also continues to be gravely concerned at the negative impact on human rights by legislation and measures introduced by states to counter terrorism in a range of countries. The organization urges governments to ensure that any measure taken to prevent or respond to such attacks fully conforms to their obligations under international law, in particular international human rights, refugee and humanitarian law. Furthermore, there is a need to ensure that due process guarantees be applied to individuals and groups listed as 'terrorists' on sanctions' and other lists maintained by the Security Council(17), as the current process for placing individuals and groups on lists and removing them lacks any fair and transparent procedures that meet due process guarantees.

Amnesty International welcomes the establishment by the Commission on Human Rights of a Special Rapporteur with a mandate to promote and protect human rights and fundamental freedoms while countering terrorism. The new mandate will monitor counter-terrorism laws and practices for their compatibility with human rights and provide technical assistance to states. NGOs consider this mandate constitutes an important human rights complement to the work of the Counter Terrorism Committee set up by the Security Council in Resolution 1373 (2001).

**Amnesty International recommends that governments:**

- **Ensure that their measures to counter terrorism are fully consistent with their international obligations under international law, in particular human rights, refugee and humanitarian law, including the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment;**
- **Ensure that the Security Council and the UN Secretary-General develop fair and transparent procedures that meet international standards of due process for placing and removing individuals and entities on lists dealing with terrorist suspects; and**
- **Work for a definition of terrorism that is precisely defined and accords with international human rights standards.**

## **Strengthening the Office of the High Commissioner for Human Rights**

*"While the role of the High Commissioner has expanded in the areas of crisis response, national human rights capacity-building, support for the Millennium Development Goals and conflict prevention, her Office remains woefully ill-equipped to respond to the broad range of human rights challenges facing the international community. Member States' proclaimed commitment to human rights must be matched by resources to strengthen the Office's ability to discharge its vital mandate."*

UN Secretary-General Kofi Annan (18)

Within the UN system, the High Commissioner for Human Rights has a unique mandate to protect the effective enjoyment by all of all human rights. Governments must ensure that her Office has the financial, material and human resources necessary to exercise core protection functions. Key among these is the High Commissioner's capacity to provide human rights leadership and timely advice on contemporary human rights priorities, such as the rule of law, effective realization of economic, social and cultural rights, as well as civil and political rights and the protection of women's human rights. A more secure resource base will enable the High Commissioner to engage effectively with other parts of the UN system, including the Security Council as envisaged in the Secretary-General's report.(19) In response to a call from the Secretary-General in his report '*In larger freedom*', the High Commissioner submitted a thoughtful and comprehensive Plan of Action that forms an excellent basis for the future direction and work of her office and which deserves governments' full support.(20)

Typically, the Office of the High Commissioner for Human Rights has received less than 2% of the UN's regular budget, an amount which is substantially less than required to carry out core activities such as running field operations, and supporting the activities of the Commission on Human Rights, the Special Procedures and the treaty bodies. To supplement the budget deficit, the Office has had to rely on voluntary contributions, which have often fallen short of the total amount requested and the majority of which has been provided by just a handful of governments. Some states have been slow to honour their pledges, have reduced the amount originally promised, or have ear-marked their donations for particular activities. This has hampered the ability of the Office to manage a program of activities in accordance with its mandate to promote and protect all human rights. Due to its reliance on voluntary donations, more than half of the Office's 570 staff are paid from voluntary funds, which has clear consequences for the Office's ability to attract and retain staff with requisite knowledge and expertise.(21)

Amnesty International believes that it is critical that member states agree to place funding for the Office on a secure footing and to increase the amount apportioned from the regular budget. Since the launch of the first Annual Appeal by the Office in 2000, requests for voluntary contributions have been



for an amount equivalent to a 100% - 200% increase of the regular budget appropriation for the Office.(22) This would suggest that in order to carry out its existing functions, the Office requires funding equivalent to at least 6% of the regular budget. Amnesty International therefore calls on all states to ensure that the Office can fulfil its functions effectively by increasing its funding immediately to 6% of the regular budget. Should member states agree to create a new Human Rights Council or similar body, there will be further resource requirements which will be additional to this allocation.

**Amnesty International recommends that governments:**

- **Commit to an immediate trebling of that part of the funding of the Office of the High Commissioner for Human Rights that comes from the regular UN budget, and to double, within five years, the overall resources of the Office;**
- **Express support for the High Commissioner's Plan of Action: Protection and Empowerment(23); and**
- **Support closer cooperation between the High Commissioner for Human Rights and the General Assembly, the ECOSOC, the Security Council, and the proposed Peacebuilding Commission.**

**Corporate accountability for human rights**

*"... globalization is under intense pressure, and business is in the line of fire, seen by many as not doing enough in the areas of environment, labour standards, and human rights. This may not seem fair, but it is a perception that will not go away unless business is seen to be committed to global corporate citizenship. "*

UN Secretary-General Kofi Annan(24)

Economically powerful actors are in a position to affect the human rights of millions of people. Some companies abuse human rights through their employment practices or the effect of their production processes on workers, communities and the environment. Others are implicated in abuses through their association with repressive governments and the activities of their security forces.

Many leading companies have started to address human rights within their own operations and sphere of influence, e.g. through voluntary codes of conduct. To date, however, such codes have failed to ensure accountability for human rights in the course of corporate activities, and importantly to reduce significantly the negative impact that some companies' activities have on human rights.

Amnesty International and other human rights advocates are promoting the framework of international human rights standards that can be applied to companies and act as a catalyst for national legal reform and provide a benchmark for national law and regulations. Amnesty International believes the *UN Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights*(25) form the best basis from which to develop a set of global standards for the human rights responsibilities of transnational corporations and other business enterprises.

**Amnesty International recommends that governments:**

- **Support the mandate of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises in establishing a universally recognised UN statement of international human rights standards applicable to business, based on the *UN Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights*.**

**Protection of the human rights of refugees, internally displaced persons and migrants**

*"Today, more people live outside their countries of origin than at any time in history and their numbers are expected to increase in the future. Migration offers many opportunities [and] it also involves many complex challenges... Africa has some 2.8 million refugees and fully half of the world's 24.6 million internally displaced people"*

UN Secretary-General Kofi Annan(26)

Millions of refugees, internally displaced persons and migrants are denied fundamental human rights such as the right to non-discrimination, physical security and integrity and economic, social and cultural rights, including the right to an adequate standard of living.(27)

There is an urgent need to prevent conditions that give rise to forced displacement and to find durable solutions to the plight of refugees and internally displaced persons. There are currently 38 protracted refugee situations in the world -- the majority of these in Africa -- accounting for some 6.2 million refugees whose basic rights and essential physical and mental needs remain unfulfilled after years in exile. The critical lack of human security arising from situations of extreme poverty and enforced deprivation of fundamental economic, social and cultural rights should be recognised as a cause of forced migration and addressed by the international community. The gender dimensions of forced migration should also be recognized and the widespread problem of gender-based violence and discrimination against women and girls should be addressed.

States must uphold international standards that protect the rights of internally displaced persons and refugees, including the right to seek and enjoy asylum. Refugees who are unable to find effective protection are often compelled to move on. While on the move, many suffer violations of their human rights by both state and non-state actors, including interdiction at borders and denial of access to adequate asylum determination procedures, exploitation by traffickers, and forced return to situations of torture.

The policy and practice of migration "management" must be conceptualised within a human rights framework. Migrants, especially irregular migrants, are often subject to serious human rights abuses, including racist attacks. Because they lack a bond of citizenship to the country in which they live and work or because they lack a legal status in that country, they are less likely to bring these abuses to the attention of the state authorities in order to seek remedies. Impunity, including on the part of abusive employers, thus flourishes unchecked. Moreover, migrant women are often reluctant to report sexual and other forms of gender-based violence, or face inadequate state responses if they do, and thus face multiple barriers to justice. It is important that the UN General Assembly high-level dialogue on international migration and development in 2006 is explicitly premised on a rights-based approach to migration management at the national, regional and international level.

#### **Amnesty International recommends that governments:**

- **Take measures to ensure that the fundamental rights and freedoms of refugees and internally displaced persons are respected and protected, including by ensuring access to gender sensitive protection mechanisms, and find durable solutions to the plight of refugees and internally displaced populations;**
- **Address the root causes of forced migration including those related to denial of economic, social and cultural rights, and commit to preventing conditions that give rise to the flight of refugees and internally displaced persons; and**
- **Explicitly guarantee to protect, respect and fulfil the human rights of all migrants, irrespective of their legal status, on their territory or under their effective control, including through giving particular attention to the protection of the human rights of especially vulnerable groups such as women and children.**

#### **Ratification of international human rights treaties**

*"It is through the promotion of greater respect for the existing international legal framework of human rights and its progressive incorporation into national law that the human rights vision will have a practical effect where it matters most, in the daily lives of people around the world."*

High Commissioner for Human Rights, UN University, Tokyo, November 2004

Ratification of international treaties is an important commitment by states to multilateralism and to upholding the rule of law. As UN member states, governments are obliged to act in accordance with the UN Charter, including its human rights provisions. Each of the UN's 191 member states has ratified at least one of the seven core international human rights treaties and over 75% have ratified four.(28) The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women have achieved near universal ratification. At the same time, there are 30 states which have not yet ratified either the International Covenant on Civil and Political Rights (ICCPR) or the International Covenant on Economic, Social and Cultural Rights (ICESCR), and only 30 states are party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.(29)

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are the key instruments defining who is a refugee as well as the standards for treatment to be afforded to refugees. 138 states are party to both this Convention and its 1967 Protocol, but very few have ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.(30)

The Rome Statute of the International Criminal Court (ICC) will mark its 100th ratification during the 2005 Treaty Event. This is an important milestone in international justice. Other states not yet a party to the Rome Statute should join Mexico and others in depositing their instruments of ratification or announce their intention to ratify the Rome Statute in the future.

The procedures by which individuals are able to claim their rights at the international level have been an important tool for victims denied redress at the national level. Individual complaints procedures exist in relation to five of the core human rights treaties. An Optional Protocol to the ICESCR for this purpose is also contemplated, although the slow pace of progress in adopting an effective instrument betrays the failure of the international community to recognize economic, social and cultural rights as rights of an equal standing with civil and political rights.(31) Optional protocols also provide a means of monitoring states' compliance with treaties, including the possibility of on-site investigations and the creation of national and international mechanisms to inspect places of detention.

At the World Conference on Human Rights in 1993, states committed themselves to limiting the extent of any reservation, ensuring that none are incompatible with the object and purpose of the treaty, and regularly reviewing reservations with a view to withdrawing them.(32) However, reservations have been entered to all of the core human rights treaties, in particular the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. Some of these

seriously limit rights provided for in the affected treaty.

A state which is a party to an international human rights treaty is obliged to respect, protect and fulfil the rights guaranteed in that treaty, and to ensure that its domestic legislation and institutional practices are in conformity with the provisions of the treaty. Yet many states parties fail to effectively implement rights at the national level, to communicate information about rights throughout government, to provide training to all relevant state organs, and to provide access to effective and enforceable remedies to individuals whose treaty rights are violated. Furthermore, many states fail to report on implementation of their obligations to the treaty monitoring bodies on time, and to fully implement their recommendations.

### **Amnesty International recommends that governments:**

- **Use the opportunity of the 2005 Treaty Event to ratify at least one international human rights treaty or optional protocol, or one of the multilateral treaties protecting the rights of refugees, migrant workers and members of their families, or stateless persons. States parties should also take the necessary measures to recognize the competence of the related treaty bodies to consider individual communications;**
- **Commit at the 2005 World Summit to accede to the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights by 2010 and to five other core international human rights treaties and protocols by 2015;**
- **Withdraw limiting reservations to international human rights treaties; and**
- **Ensure full compliance with their treaty obligations in law, policy and practice, as well as timely submission of reports to the treaty monitoring bodies and full implementation of their recommendations.**

### **Ending impunity for violations of human rights and humanitarian law**

*"Our hope is that, by punishing the guilty, the ICC will bring some comfort to the surviving victims and to the communities that have been targeted. More important, we hope it will deter future war criminals, and bring nearer the day when no ruler, no State, no junta and no army anywhere will be able to abuse human rights with impunity."*

UN Secretary-General Kofi Annan(33)

Amnesty International believes that in order to ensure an end to impunity for crimes under international law the international community must develop the tools, processes and mechanisms for international cooperation in order to

respond to all such crimes with justice, truth and full reparations.(34) The international community must not limit its efforts in this regard to the few bearing the greatest responsibility for such crimes, as such an approach would lead to impunity, hamper efforts to discover the truth and deny full reparations to the victims, as well as fail to deter a repetition of such crimes in the future.(35)

New mechanisms for international justice have been created over the last decade with the establishment of the permanent International Criminal Court, the *ad hoc* International Criminal Tribunals for the former Yugoslavia and Rwanda and other international or internationalized courts.(36) While these courts are bringing a few of the thousands of persons responsible for the crimes to justice, they have also suffered from a lack of resources and the failure of states to cooperate fully with them.

However, such international courts cannot act in a vacuum. They will be able to investigate and prosecute only a handful of those responsible for murders, "disappearances", torture and rape and it is therefore essential that national courts also accept their responsibility to investigate and prosecute crimes under international law. States that have ratified the Rome Statute of the International Criminal Court have committed themselves to act in a complementary manner by accepting the primary responsibility to investigate and prosecute crimes in their national courts.

A number of states have acted on behalf of the international community, and in a manner fully consistent with their powers under international law, by bringing to justice in their national courts persons accused of crimes under international law, despite there being no direct link between their state and the crime. This practice should be encouraged and implemented by states around the world to ensure that there can be no safe havens for persons accused of such crimes.

#### **Amnesty International recommends that:**

- **States that have not yet done so should use the occasion of the 2005 World Summit to ratify the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court to ensure that the emerging system of international justice is fully effective;**
- **States should respect their obligations to bring to justice those responsible for crimes under national and international law and not to adopt amnesties and other barriers to justice and redress;**
- **States should enact effective implementing legislation to ensure that there are no barriers to cooperating with the ICC and that they can fully comply with their obligations under other international law;(37)**

- **States should ensure the right to reparations for victims, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, and an effective procedure to obtain such reparations as part of national law; and**
- **States should call on permanent members of the Security Council not to use their veto in cases of genocide, war crimes and crimes against humanity.**

## **Strengthening the United Nations**

*"...we have a once-in-a-generation opportunity to reform the Organization and if we miss it this time I don't know when they are going to get the opportunity again. Stakes have never been higher and those leaders are now under increasing pressure to reach agreement on critical issues. Negotiations are moving ahead. But time is short, and a great deal remains to be worked out"*

UN Secretary-General Kofi Annan(38)

A key proposal for UN reform is to expand the Security Council's membership to make it broadly representative of the realities of power in today's world. Other proposals before the 2005 World Summit deal with the work of the Economic and Social Council (ECOSOC) and the General Assembly. This paper addresses the proposal to elevate the place of human rights in the UN system and to create a new standing human rights body: a Human Rights Council.

## **A Human Rights Council**

*"Since its establishment, the United Nations has committed itself to striving for a world of peace and justice grounded in universal respect for human rights – a mission reaffirmed five years ago by the Millennium Declaration. But the system for protecting human rights at the international level is today under considerable strain. Change is needed if the United Nations is to sustain long-term, high-level engagement on human rights issues, across the range of the Organization's work."*

UN Secretary-General Kofi Annan(39)

In his report *"In larger freedom: towards development, security and human rights for all"*, the Secretary-General argues that development, security and human rights are all imperative and reinforce each other and that human rights should be given a more authoritative position in the UN system, that accords with the primacy of human rights in the UN Charter. To achieve that aim, the Secretary-General boldly proposed to replace the Commission on Human Rights with a higher-level, standing body, a Human Rights Council. Amnesty International fully supports the proposal to create such a body and made a detailed assessment of the need for a Human Rights Council.(40)

With the necessary political will, the 2005 World Summit offers a unique

opportunity to strengthen the promotion and protection of human rights throughout the UN system and to create an effective and authoritative UN human rights body. To reflect the centrality of human rights in the UN Charter, the aim must be to create a Human Rights Council as a principal organ of the UN. It is important that essential characteristics of such a Human Rights Council be agreed at the 2005 World Summit. These include that the new Human Rights Council:

- will retain all the strengths of the Commission on Human Rights including the system of Special Procedures as well as the Commission's unique practices and procedures for consultation with NGOs, developed under Article 71 of the UN Charter;
- will be able to deal with all human rights situations, including continuous situations and to meet at any time to deal with urgent and other situations that require special attention;
- will evaluate states' fulfilment of all their human rights obligations, applying transparent procedures, through periodic reviews based on objective information and that all new members of the Council will be evaluated in the first year of membership;
- will apply electoral rules and practices that ensure that all UN member states can become Council members (such as that a retiring member of the Council shall not be eligible for immediate re-election);
- will encourage participation of members that demonstrate a commitment to strengthening human rights; and
- will be created by the General Assembly and its President in an open, consultative and transparent process involving NGOs when it elaborates the functions and working methods of the proposed Human Rights Council.

**Amnesty International recommends that governments:**

- **Decide at the 2005 World Summit to establish a Human Rights Council with a substantive mandate and effective procedures to address *all* human rights of *all* people at *all* times;**
- **Aim to create such a body within a determined and shortest possible time frame as a principal organ of the United Nations; and**
- **Ensure that the process for establishing the Human Rights Council is placed within a specific timetable and allows for open and effective consultation with all interested parties, including NGOs.**

**Appendix: Documents issued by Amnesty International in connection with the process leading up to the 2005 World Summit**



*United Nations: All countries must use important report of High-level Panel on Threats, Challenges and Change to strengthen human rights* (AI Index: IOR 40/026/2004), 2 December 2004

*2005 UN Commission on Human Rights: The UN's chief guardian of human rights?* (AI Index: IOR 41/001/2005), 1 January 2005

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*Amnesty International welcomes Action Plan of High Commissioner for Human Rights: Urges governments to support and commit resources* (AI Index: IOR 41/048/2005), 30 May 2005

*UN reform: Draft Outcome Document fails to recognize the primacy of human rights* (AI Index: IOR 40/012/2005), 3 June 2005

*UN reform: Freedom to live in dignity, Statement by Amnesty International to the informal interactive hearings of the UN General Assembly with non-governmental organizations, civil society organizations and the private sector* (AI Index: IOR 41/049/2005), 24 June 2005

*UN reform: Comments and recommendations on second Draft Outcome Document for September Summit* (AI Index: IOR 40/021/2005), 26 July 2005

*UN: Proposed Human Rights Council must not be stripped of its essentials* (AI Index: IOR 40/022/2005), 4 August 2005

*Amnesty International welcomes strengthened human rights provisions in latest draft text for September Summit: continues to call for further improvements* (AI Index: IOR 41/053/2005), 9 August 2005

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(1) Report of the Secretary-General, Modalities, format and organization of the high-level plenary meeting of the sixtieth session of the General Assembly (A/59/545).

(2) United Nations Millennium Declaration, adopted 18 September 2000 (GA/Res/55/2).

(3) The Millennium Development Goals are a set of time-bound and measurable goals and targets, for combating poverty, hunger, disease, child mortality, illiteracy, environmental degradation and discrimination against women.

(4) In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005 (A/59/2005). This report builds upon two wide-ranging reviews of global challenges commissioned by the Secretary-General: Investing in Development: A Practical Plan to Achieve the Millennium Development Goals (also known as the Millennium Project Report, UNDP 2005) and A more secure world, our shared responsibility, the report of the High-level Panel on Threats, Challenges and Change (UN Doc. A/59/565).

(5) Declaration adopted by the Commission on the Status of Women at its 49th session, February 2005 (UN Doc. E/CN.6/2005/L1).

(6) Such rights include, but are not limited to, the rights to freedom of expression and association; the right to adequate food and the elimination of hunger; the right to free and compulsory primary education; the right to gender equality in education; the elimination of discrimination against women; the right to the highest attainable standard of health, including the reduction of child and maternal mortality and taking essential measures to combat HIV/AIDS and other pandemics; as well as obligations of non-discrimination and equality.

(7) A Human Rights Perspective on the Millennium Development Goals, Philip Alston, 2004. Paper prepared as a contribution to the work of the UN Millennium Project Task Force on Poverty and Economic Development.

(8) The UNDP's Human Development Report 2003 provides a reminder that: "In a number of countries the Goals could be met more easily simply by improving the circumstances of people already better off [...] But while this approach may fit the letter of the Goals, it does not fit their spirit. Women, rural inhabitants, ethnic minorities and other poor people are typically progressing slower than national averages - or showing no progress - even where countries as a whole are moving towards the Goals." Human Development Report, Millennium Development Goals: A compact among nations to end human poverty, UNDP, New York, 2003, p. 3.

(9) Article 2 of the UN Declaration on the Elimination of Violence against Women stipulates that "[v]iolence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs."

(10) See *Lives blown apart: Crimes against women in times of conflict. Stop violence against women* (AI Index: ACT/77/075/2004), 8 December 2004, and *It's in our hands: Stop violence against women* (AI Index: ACT/77/001/2004), 2004.

(11) See the last report to the Commission on Human Rights as Special Rapporteur on violence against women, its causes and consequences of Radhika Coomaraswamy (E/CN.4/2003/75, 6 January 2003).

(12) Sexual and reproductive rights embrace human rights that are already recognized in national laws and international human rights standards, and rest on the recognition of the right of all women to have control over and decide freely and responsibly on matters related to their sexuality. They include the basic right of all couples and individuals to make decisions concerning reproduction free of discrimination, coercion and violence, including deciding freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. (Beijing Platform for Action, paragraphs 95 and 96).

(13) The Political Declaration adopted at the 10-year review emphasized that the full and effective implementation of the Beijing Declaration and Platform for Action is essential to achieving internationally agreed goals of the Millennium Declaration and stressed the need to ensure the integration of a gender perspective in the review of the Millennium Declaration.

(14) Beijing Platform for Action, paragraphs 124-126.

(15) *We the Peoples: the role of the UN in the 21st Century*, page 52, Millennium Report to the United Nations General Assembly (A/54/2000).

(16) From the keynote address by the UN Secretary-General to the closing plenary of the International Summit on Democracy, Terrorism and Security, Madrid, Spain, 10 March 2005.

(17) Such as the Al Qaida and Taliban Sanctions Committee established by the Security Council under Resolution 1267 (1999).

(18) In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005 (A/59/2005), paragraph 145.

(19) In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005 (A/59/2005), paragraph 144.

(20) The OHCHR Plan of Action: Protection and Empowerment, May 2005.

(21) See Annual Appeal of the Office of the High Commissioner for Human Rights, 2005

(22) The Annual Appeals for voluntary contributions have been for:

US\$53.1 million, in addition to US\$21,714,950 allocated from the regular budget in 2000

US\$53.1 million, in addition to US\$21,476,600 from the regular budget in 2001

US\$55.8 million, in addition to US\$21.6 million from the regular budget in 2002

US\$62.5 million, in addition to US\$23.6 million from regular budget in 2003

US\$54.8 million, in addition to US\$27.1 million from the regular budget in 2004, and

US\$59.8 million, in addition to US\$30 million from the regular budget in 2005.

(23) A/59/2005/Add.3, Geneva, May 2005.

(24) UN Secretary-General Kofi Annan addressing the United States Chamber of Commerce, 8 June 1999. Press Release SG/SM/7022.

(25) These norms were approved by the Sub-Commission on the Promotion and Protection of Human Rights at its 55th session in 2003 and transmitted to the Commission on Human Rights. At its 60th session, the Commission on Human Rights, through Decision 2004/116, confirmed the importance and priority of the question of the responsibility of transnational corporations and related business enterprises with regard to human rights and requested the OHCHR to report to the 61st session on the scope and legal status of existing initiatives and standards.

(26) In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005 (A/59/2005), paragraph 71.

(27) There are currently 19.2 million persons of concern to the UN High Commissioner for Refugees; a figure which includes refugees as well as internally displaced persons (IDPs) of concern to UNHCR. This figure does not, however, include the Palestinian refugees, of whom there are currently 4.2 million registered with the UN Relief and Works Agency for Palestinian Refugees. In addition, the current global population of IDPs stands at 25 million, only a proportion of which are of concern to UNHCR. The International Labour Office estimates the current global population of migrant workers and their family members to be around 120 million.

(28) The seven core international human rights treaties are: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(29) The states which have ratified neither of the International Covenants are: Antigua and Barbuda, Bahamas, Bahrain, Bhutan, Brunei Darussalam, Comoros, Cook Islands, Cuba, Fiji, Indonesia, Kiribati, Malaysia, Maldives, Marshall Islands, Micronesia (Federated states of), Myanmar, Niue, Oman, Palau, Papua New Guinea, Qatar, St Kitts and Nevis, St Lucia, Samoa, Saudi Arabia, Singapore, Tonga, Tuvalu, United Arab Emirates and Vanuatu.

(30) 139 states are parties to both the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as of 1 May 2005 according to UNHCR figures. 57 states are parties to the 1954 Convention relating to the Status of Stateless Persons and 29 states are parties to the 1961 Convention on the Reduction of Statelessness, as of 1 May 2005 according to UNHCR figures.

(31) Individual communications are provided in the first Optional Protocol to the ICCPR and the Optional Protocol to the Women's Convention; and through states parties making a declaration under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 14 of the Convention on the Elimination of All Forms of Racial Discrimination, and article 76 of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(32) Vienna Declaration and Programme of Action, part II (5).

(33) Statement by Secretary-General Kofi Annan at the Ceremony marking

the establishment of the International Criminal Court, 11 April 2002.

(34) As recommended in the report by the UN Secretary-General on the rule of law and transitional justice in conflict and post-conflict situations (S/2004/616), 3 Aug 2004, and the report by the UN Secretary-General on the protection of civilians in armed conflict (S/2004/431), 28 May 2004.

(35) For a more detailed explanation of Amnesty International's position, see Justice and the rule of law: the role of the United Nations (AI Index: IOR 40/014/2004), 30 September 2004.

(36) These include the Special Court for Sierra Leone, the Extraordinary Chambers for Cambodia, the internationalized panels in Kosovo and the Special Panels for East Timor.

(37) See The International Criminal Court: Guidelines for Effective Implementing Legislation (AI Index: IOR 40/11/2000), 1 August 2000.

(38) Address by the UN Secretary-General to Councillors of Strategic and International Studies, 22 June 2005 (SG/SM/9946).

(39) In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005 (A/59/2005), paragraph 141.

(40) Meeting the challenge: Transforming the Commission on Human Rights into a Human Rights Council (AI Index: IOR 40/008/2005), 27 April 2005.

<http://web.amnesty.org/library/Index/ENGIOR410502005>

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