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RUSSIAN FEDERATION

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Amnesty International's Recommendations to

The Russian Federation Government To Address Human Rights Violations in the Russian Federation

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SUMMARY

The 144 million people of the Russian Federation have witnessed dramatic changes to their country's political, economic and legal systems in recent years. Since the dissolution of the Soviet Union in 1991, a new form of government elected by popular vote has emerged, the economy has been opened up to the free market, and a new Constitution and many legal reforms have been introduced.

For the people of this vast and diverse country, these changes have affected almost every aspect of their lives. Economic liberalization has brought new opportunities for some, while many face increased hardship and insecurity. In the political sphere there has been a marked increase in freedom of expression and movement. There has also been a growth in nationalist and separatist movements. On the human rights front, some of the gross violations for so long associated with the former Soviet Union have been eradicated, but widespread abuses by Russian law enforcement officials and security forces persist, often in a climate of impunity.

Torture is prohibited under Russian law. The clearest prohibition is set out in the 1993 Constitution. Article 21(2) states: "No one shall be subjected to torture, violence or other cruel or degrading treatment or punishment. No one may be subjected to medical, scientific or other experiments without voluntary consent." However, the Criminal Code does not criminalize certain acts of torture and ill-treatment set out in Article 1 of the UN Convention against Torture. Article 117 of the Criminal Code, which refers to subjecting an individual to physical or psychological suffering through physical violence, comes closest to the definition in the Convention against Torture. Significantly, however, Article 117 does not criminalize the infliction of physical or psychological suffering by non-violent means.

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The Russian authorities are also failing in their obligation to protect women from violence in the home. Russia is a state party to the Convention on the Elimination of All Forms of Discrimination against Women and as such is obliged to submit reports every four years to the Committee on the Elimination of Discrimination against Women. In January 2002 the Committee expressed serious concern at Russia's failure to implement the provisions of the Convention, especially in the area of domestic violence against women — in their report submitted to the Committee, the Russian authorities stated that 14,000 women die each year at the hands of their husbands or other relatives.

Russia has ratified the Convention on the Rights of the Child, yet children are not afforded many of the special rights guaranteed in the Convention to protect them from torture, ill-treatment and other violations of their human rights. In 1999 the Committee on the Rights of the Child expressed concern at allegations of the “widespread practice of torture and ill-treatment” against children. The Committee also expressed concern about reports of extended periods of pre-trial detention of juveniles at the discretion of the procurator, and about poor conditions in places of detention and prisons. The Committee was further concerned about allegations that the conditions in which children were held, particularly in detention facilities but also in institutions in general, amounted to inhuman or degrading treatment.

It is clear, then, that there is a wide disparity between the international human rights obligations that Russia has promised to uphold, and the reality on the ground. The authorities need to send a clear message to their law enforcement and security forces that they must respect human rights in all circumstances, and that all those who do not will be made to answer for their actions in a court of law. In addition, the authorities must act with due diligence to protect, ensure and fulfil the rights of all people in its territories — including ethnic and national minorities; lesbian, gay, bisexual and transgender people; women; and children — in order to protect them from discrimination.

Chechnya has been the subject of political, economic and military turmoil since the collapse of the Soviet Union. The first conflict broke out in 1994 when Russian forces were sent to the region to regain control of the republic following the then Chechen President's declaration of independence from the Russian Federation. The conflict lasted two years and cost thousands of lives. The Russian military crack-down failed to subdue Chechen forces and a compromise agreement was signed to end a conflict that was increasingly unpopular in Russia.

In September 1999 the Russian authorities again sent troops to Chechnya. This followed attacks, reportedly by up to 1,000 Chechen fighters, in neighbouring Dagestan, and a series of bombings of apartment blocks in Moscow and two other cities which were blamed by the Russian authorities on “Chechens”. This second armed conflict in Chechnya shows no sign of abating. Some 300,000 people have been displaced during the conflict.

The Russian authorities have an obligation to respect, protect, ensure and promote fundamental human rights. They are clearly failing to fulfil this obligation to the civilian population of Chechnya. Those whose rights have been abused have a right to see justice done, to receive reparation and to see the wrongs done to them acknowledged and those responsible brought to justice. The Russian authorities are denying them this right. Amnesty International is calling on the authorities to live up to their obligations under national and international human rights and humanitarian law and to take concrete steps to prevent future abuses and to ensure effective redress and reparations for violations which have occurred in the past.

Amnesty International is calling on the international community to put pressure on the Russian Federation to live up to its obligations under international law to respect, protect, ensure and promote human rights.

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RUSSIAN FEDERATION



AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE RUSSIAN FEDERATION GOVERNMENT TO ADDRESS HUMAN RIGHTS VIOLATIONS IN THE RUSSIAN FEDERATION

October 2002

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RUSSIAN FEDERATION

Amnesty International's Recommendations to The Russian Federation Government To Address Human Rights Violations in The Russian Federation

October 2002

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"Providing respect for the whole range of human rights and freedoms is not an internal matter for any one state, but it is their duty under the statute of the United Nations, the international covenants and conventions."

President Boris Yeltsin, addressing the UN Security Council in 1992

BACKGROUND

The 144 million people of the Russian Federation have witnessed dramatic changes to their country's political, economic and legal systems in recent years. Since the dissolution of the Soviet Union in 1991, a new form of government elected by popular vote has emerged, the economy has been opened up to the free market, and a new Constitution and many legal reforms have been introduced.

For the people of this vast and diverse country, these changes have affected almost every aspect of their lives. Economic liberalization has brought new opportunities for some, while many face increased hardship and insecurity. In the political sphere there has been a marked increase in freedom of expression and movement. There has also been a growth in nationalist and separatist movements. On the human rights front, some of the gross violations for so long

associated with the former Soviet Union have been eradicated, but widespread abuses by Russian law enforcement officials and security forces persist, often in a climate of impunity.

The Soviet Union signed and ratified a number of international human rights treaties between the 1960s and 1991. However, for decades the authorities largely ignored the obligations they had undertaken and human rights at home saw little or no improvement. The break-up of the Soviet Union in 1991 brought renewed hopes that the political will to turn these human rights commitments into reality would emerge.

Since 1991, Russia has undergone substantial political, economic, legal and cultural change. In the 1980s the General Secretary of the Communist Party, Mikhail Gorbachev, led attempts to reform the system of communism that had prevailed for decades. This was followed by the mass privatization of state industries and the consolidation of a market economy under President Boris Yeltsin.

These reforms have had a profound impact on the everyday lives of the general population. There were widespread accusations that the privatization process was corrupt and unfair. The state infrastructure, particularly in healthcare and education, was particularly badly hit, and many state employees were not paid for months. As the economy contracted on a massive scale, unemployment soared and there was a dramatic rise in the number of people thrown into poverty. The collapse of the ruble in August 1998, prompted by default on loan payments to international financial institutions, wiped out people's savings and shattered confidence in the government's economic management. However, the economy has since enjoyed a degree of stability.

AI's CONCERNS

Torture is prohibited under Russian law. The clearest prohibition is set out in the 1993 Constitution. Article 21(2) states: "No one shall be subjected to torture, violence or other cruel or degrading treatment or punishment. No one may be subjected to medical, scientific or other experiments without voluntary consent." However, the Criminal Code does not criminalize certain acts of torture and ill-treatment set out in Article 1 of the UN Convention against Torture. Article 117 of the Criminal Code, which refers to subjecting an individual to physical or psychological suffering through physical violence, comes closest to the definition in the Convention against Torture. Significantly, however, Article 117 does not criminalize the infliction of physical or psychological suffering by non-violent means.

The Russian Federation has ratified numerous international treaties that prohibit torture in all circumstances, including the Convention against Torture. Article 15(4) of the Russian Constitution states that international law takes precedence over domestic law and should be applied directly by the courts. However, in cases of torture the courts in Russia rely on the Criminal Code rather than international standards. In February 2002 the Duma voted against amending the Criminal Code to include a specific crime of torture.

These gaps in Russian criminal law, in a country in which torture and ill-treatment are widespread, is clearly of great concern. At the time of writing (late June 2002), the criminal justice system was about to undergo radical changes with the introduction of a new Criminal Procedure Code (CPC — see box pp. 20 and 21). If implemented in full, Amnesty International is hopeful that some of the changes will address some of the shortfalls in the legal system that leave detainees at risk of torture and ill-treatment. However, the organization believes there are many factors that lie behind the prevalence of torture and ill-treatment, not least of these being the climate of impunity enjoyed by the perpetrators.

The Russian authorities are also failing in their obligation to protect women from violence in the home. Russia is a state party to the Convention on the Elimination of All Forms of Discrimination against Women and as such is obliged to submit reports every four years to the Committee on the Elimination of Discrimination against Women. In January 2002 the Committee expressed serious concern at Russia's failure to implement the provisions of the Convention, especially in the area of domestic violence against women — in their report submitted to the Committee, the Russian authorities stated that 14,000 women die each year at the hands of their husbands or other relatives. In its concluding observations the Committee stated that it "is concerned at the prevalent tendency, including by law enforcement officials to view [domestic] violence not as a crime but as a private matter between spouses".¹⁵ The Committee recommended, among other measures, that the Russian government immediately enact "specific domestic violence legislation to facilitate the prosecution of offenders" and take "immediate and effective measures to provide training to all levels of law enforcement officers and judges as to the serious and criminal nature of domestic violence".

Russia has ratified the Convention on the Rights of the Child, yet children are not afforded many of the special rights guaranteed in the Convention to protect them from torture, ill-treatment and other violations of their human rights. In 1999 the Committee on the Rights of the Child expressed concern at allegations of the "widespread practice of torture and ill-treatment" against children. The Committee also expressed concern about reports of extended periods of pre-trial detention of juveniles at the discretion of the procurator, and about poor conditions in places of detention and prisons. The Committee was further concerned about allegations that the conditions in which children were held, particularly in detention facilities but also in institutions in general, amounted to inhuman or degrading treatment. The Committee urged the Russian authorities to ensure that, in dispensing juvenile justice, children are only deprived of their liberty as a measure of last resort. It also emphasized the need to change the punitive character of juvenile justice to a system aimed more at the rehabilitation of juvenile offenders.

It is clear, then, that there is a wide disparity between the international human rights obligations that Russia has promised to uphold, and the reality on the ground. The authorities need to send a clear message to their law enforcement and security forces that they must respect human rights in all circumstances, and that all those who do not will be made to answer for their actions in a court of law. In addition, the authorities must act with due diligence to protect, ensure and fulfil the rights of all people in its territories — including ethnic and national minorities; lesbian, gay, bisexual and transgender people; women; and children — in order to protect them from discrimination.

Chechnya has been the subject of political, economic and military turmoil since the collapse of the Soviet Union. The first conflict broke out in 1994 when Russian forces were sent to the region to regain control of the republic following the then Chechen President's declaration of independence from the Russian Federation. The conflict lasted two years and cost thousands of lives. The Russian military crack-down failed to subdue Chechen forces and a compromise agreement was signed to end a conflict that was increasingly unpopular in Russia.

In September 1999 the Russian authorities again sent troops to Chechnya. This followed attacks, reportedly by up to 1,000 Chechen fighters, in neighbouring Dagestan, and a series of bombings of apartment blocks in Moscow and two other cities which were blamed by the Russian authorities on "Chechens". This second armed conflict in Chechnya shows no sign of abating. Some 300,000 people have been displaced during the conflict.

The Russian authorities have an obligation to respect, protect, ensure and promote fundamental human rights. They are clearly failing to fulfil this obligation to the civilian population of Chechnya. Those whose rights have been abused have a right to see justice done, to receive reparation and to see the wrongs done to them acknowledged and those responsible

brought to justice. The Russian authorities are denying them this right. Amnesty International is calling on the authorities to live up to their obligations under national and international human rights and humanitarian law and to take concrete steps to prevent future abuses and to ensure effective redress and reparations for violations which have occurred in the past.

Amnesty International is calling on the international community to put pressure on the Russian Federation to live up to its obligations under international law to respect, protect, ensure and promote human rights.

AI's RECOMMENDATIONS TO THE RUSSIAN AUTHORITIES

Amnesty International believes that the following measures would radically improve the protection of human rights in the Russian Federation. It calls on the Russian authorities to:

1. Show a clear political commitment to promote and protect fundamental human rights for everybody and to give an unequivocal message that violations of these rights will not be tolerated.
2. Take immediate and concrete steps towards the abolition of the death penalty in law and ratify Protocols No. 6 and 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.
3. Institute training and monitoring programs to ensure that law enforcement and other officials do not act in a discriminatory way towards people on the basis of their gender, sexual orientation, ethnic or national origin or any other aspects of their identity or status.
4. Make domestic violence a distinct criminal offence, and introduce training for law enforcement officials to recognize and prosecute violence against women, including domestic violence and trafficking of women.
5. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, granting authority to the Committee on the Elimination of Discrimination against Women (CEDAW) to examine complaints by individuals and groups.
6. Ensure that children are deprived of their liberty only as a measure of last resort and for the shortest appropriate time.
7. Review legislation and regulations at federal and regional levels with the aim of removing all elements of the passport and registration system (formerly known as the "propiska" system) which serve as a basis for systematic discrimination.
8. Ensure that crimes that are racially motivated are classified and prosecuted as such.
9. Establish national laws and procedures consistent with the Organization for Security and Co-operation in Europe (OSCE) Principles Governing Conventional Arms Transfers (agreed in November 1993) to prevent exports of arms and security equipment and technology where there is a danger that those exports will be used for serious violations of international human rights and humanitarian law.

Torture and ill-treatment

10. Adopt a law which specifically criminalizes torture and ill-treatment in line with international human rights standards — including Article 1 of the Convention against Torture — and which provides for penalties that take into account the grave nature of these offences.
11. Implement in practice the prohibition of coercion under Article 302 of the Criminal Code and ensure that Article 9 of the new Criminal Procedure Code (CPC), which prohibits anyone involved in criminal proceedings from being subjected to violence, torture or other cruel, inhuman or degrading treatment, is respected.
12. Ensure that prompt, impartial, independent and thorough investigations of complaints of torture are carried out and that the perpetrators are brought to justice in line with international human rights standards.
13. Establish an independent body with powers, including the power to subpoena witnesses, to investigate and prosecute acts of torture and ill-treatment by officials or that occur as a result of the acquiescence, instigation or consent of officials.
14. Ensure that all law enforcement personnel are trained in international law on the prohibition of torture and ill-treatment in all circumstances and are informed of the criminal liability that the use of torture and ill-treatment entails, regardless of rank.
15. Ensure that all detainees are guaranteed prompt access to a lawyer following arrest, as stipulated in the Russian Constitution. This right should be extended to anyone summoned to a police station as a witness who is then questioned as a possible suspect.
16. Ensure that all evidence, including statements, admitted in any proceedings have been lawfully obtained.
17. Ensure that all detainees who allege that they were subjected to torture or ill-treatment are examined as a matter of routine by qualified and independent medical personnel for physical and psychological signs of torture.
18. Ensure that health care professionals at official treatment centres are trained in the recognition and treatment of injuries, including psychological, relating to torture and ill-treatment.
19. Amend the new CPC to ensure that medical reports from all qualified medical personnel are accepted as evidence in cases relating to allegations of torture and ill-treatment.
20. Ensure that female security personnel are present during the interrogation of women detainees and are solely responsible for conducting body searches of women detainees. There should be no contact between male guards and female prisoners without the presence of a female guard.
21. Include gender-specific information in programs to educate, inform and train relevant officials regarding the prohibition of torture.
22. Ensure that victims of human rights violations, including torture and ill-treatment, have access to reparation, including compensation, medical care and rehabilitation.

AI's Recommendations to the Russian Federation Government

23. Introduce training for all law enforcement officials and members of the security forces on the special needs and rights of children, as set out in the Convention on the Rights of the Child.
24. Urgently address the causes of overcrowding in detention, particularly in pre-trial detention facilities, including through the implementation of new provisions under the new CPC that place greater emphasis on alternatives to pre-trial detention.
25. Authorize, without delay, publication of all reports of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visits to the Russian Federation, and translate and disseminate them widely in all relevant languages. Take all necessary measures to implement the recommendations of the CPT without delay.
26. Take all other measures necessary to prevent and punish torture including those set out in Amnesty International's 12-Point Program for the Prevention of Torture by Agents of the State (Appendix 1).

Chechnya

Amnesty International calls on the government of the Russian Federation to implement the following recommendations in relation to the conduct of its forces in Chechnya:

27. Take urgent steps to ensure that civilians are protected at all times from the impact of security force operations.
28. Hold comprehensive and impartial investigations into allegations of violations of international human rights and humanitarian law, including war crimes, and bring those responsible to justice in accordance with international standards.
29. Ensure that all victims of violations of international human rights and humanitarian law have access to a system of effective redress and an enforceable right to fair and adequate reparation.
30. Take steps to build confidence between the civilian population and the authorities, including the appointment of trained, experienced and qualified mixed-gender teams of investigators and prosecutors to investigate allegations of torture involving sexual violence and rape against the civilian population.
31. Revise the training, disciplinary procedures and rules of engagement for the security forces, to prevent human rights violations.
32. Ensure that Order 80 and Decree 46 are expanded to cover all Russian security forces, including federal soldiers, involved in carrying out raids and that appropriate measures are taken against those who violate them.
33. Make available regularly up-to-date lists of all members of the Russian security forces charged and prosecuted for human rights violations committed in Chechnya, which should include specific information on who has been charged with what crime. The list should also include information on the status of all investigations into and prosecutions in connection with violations of international human rights and humanitarian law in Chechnya.

34. Take all other measures necessary to prevent and punish torture including those set out in Amnesty International's 14-Point Program for the Prevention of Extrajudicial Executions (Appendix 2).
35. Carry out autopsies where there are grounds to believe the person may have died as a result of torture or extrajudicial execution, in order to determine the cause of death, whether injuries occurred prior to death and — where necessary — to establish the identity of the deceased.
36. Extend an invitation to and arrange without delay dates for visits of the UN Special Rapporteur on torture and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. Grant unrestricted access to Chechnya to independent media and human rights monitors, including from international organizations.
37. Ensure that all those held in custody are treated humanely with respect for the inherent dignity of the human person and are held in conditions which at least meet minimum international standards.
38. Make public the names and whereabouts of all persons deprived of their liberty and the charges brought against them, including those detained at border crossings and other checkpoints, in police stations, temporary detention facilities and on the premises of Russian military bases.
39. Take all other measures necessary to prevent "disappearances" including those set out in Amnesty International's 14-Point Program for the Prevention of "Disappearances" (Appendix 3).
40. Ensure full and appropriate access to detainees by the International Committee of the Red Cross.
41. Provide adequate protection and humanitarian assistance, in accordance with principles of humanity and impartiality, to Chechen internally displaced people (IDPs) and other civilians in Chechnya in accordance with the UN Guiding Principles on Internal Displacement and other applicable international standards. Stop attempts to forcibly return Chechen IDPs back to Chechnya until they can return voluntarily, in safety and with dignity, to their place of origin or choice.

Amnesty International calls on the Chechen armed opposition groups to implement the following recommendations:

42. Take steps to ensure that all fighters fully respect the requirements of international humanitarian law, in particular those protecting civilians and captured combatants.
43. Ensure full and appropriate access to detainees by the International Committee of the Red Cross.
44. Protect and facilitate the operations of any humanitarian agency or human rights organization present in or seeking access to territory under the control of Chechen forces.

International community

Amnesty International calls on the international community to:

AI's Recommendations to the Russian Federation Government

45. Expose and condemn human rights violations, such as torture and ill-treatment, committed by Russian law enforcement officials.
46. Condemn human rights abuses and violations of international humanitarian law committed by Russian security forces and Chechen forces in Chechnya.
47. Urge and, if necessary, assist the authorities to ensure that all those responsible for abuses of human rights or international humanitarian law are brought to justice before independent impartial courts established by law and in proceedings which meet international standards of fairness, and take measures to facilitate such proceedings.
48. Put pressure on the Russian authorities vigorously to investigate and prosecute in fair trials the perpetrators of these violations and to abide by their international obligations to promote and protect human rights for everybody.
49. Ensure the enactment of legislation providing for universal jurisdiction over crimes under international law including crimes against humanity; war crimes; genocide; torture, including rape; "disappearances" and extrajudicial executions, and exercise such jurisdiction whenever cases arise.
50. Ensure that people who have fled the conflict are not returned to Chechnya or other parts of the Russian Federation unless and until their safe and durable return with dignity is assured.

Appendix 1:

12-Point Program for the Prevention of Torture by Agents of the State (Amnesty International, 1983, 2000)

Torture is a fundamental violation of human rights, condemned by the international community as an offence to human dignity and prohibited in all circumstances under international law. Yet torture persists, daily and across the globe. Immediate steps are needed to confront torture and other cruel, inhuman or degrading treatment or punishment wherever they occur and to eradicate them totally.

Amnesty International calls on all governments to implement the following 12-Point Program for the Prevention of Torture by Agents of the State. It invites concerned individuals and organizations to ensure that they do so. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to end torture and to work for its eradication worldwide.

1. Condemn torture

The highest authorities of every country should demonstrate their total opposition to torture. They should condemn torture unreservedly whenever it occurs. They should make clear to all members of the police, military and other security forces that torture will never be tolerated.

2. Ensure access to prisoners

Torture often takes place while prisoners are held incommunicado — unable to contact people outside who could help them or find out what is happening to them. The practice of incommunicado detention should be ended. Governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Prisoners should have access to relatives, lawyers and doctors without delay and regularly thereafter.

3. No secret detention

In some countries torture takes place in secret locations, often after the victims are made to “disappear”. Governments should ensure that prisoners are held only in officially recognized places of detention and that accurate information about their arrest and whereabouts is made available immediately to relatives, lawyers and the courts. Effective judicial remedies should be available at all times to enable relatives and lawyers to find out immediately where a prisoner is held and under what authority and to ensure the prisoner's safety.

4. Provide safeguards during detention and interrogation

All prisoners should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention. Judges should investigate any evidence of torture and order release if the detention is unlawful. A lawyer should be present during interrogations. Governments should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. The authorities responsible for detention should be separate from those in charge of interrogation. There should be

regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

5. Prohibit torture in law

Governments should adopt laws for the prohibition and prevention of torture incorporating the main elements of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other relevant international standards. All judicial and administrative corporal punishments should be abolished. The prohibition of torture and the essential safeguards for its prevention must not be suspended under any circumstances, including states of war or other public emergency.

6. Investigate

All complaints and reports of torture should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The methods and findings of such investigations should be made public. Officials suspected of committing torture should be suspended from active duty during the investigation. Complainants, witnesses and others at risk should be protected from intimidation and reprisals.

7. Prosecute

Those responsible for torture must be brought to justice. This principle should apply wherever alleged torturers happen to be, whatever their nationality or position, regardless of where the crime was committed and the nationality of the victims, and no matter how much time has elapsed since the commission of the crime. Governments must exercise universal jurisdiction over alleged torturers or extradite them, and cooperate with each other in such criminal proceedings. Trials must be fair. An order from a superior officer must never be accepted as a justification for torture.

8. No use of statements extracted under torture

Governments should ensure that statements and other evidence obtained through torture may not be invoked in any proceedings, except against a person accused of torture.

9. Provide effective training

It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture is a criminal act. Officials should be instructed that they have the right and duty to refuse to obey any order to torture.

10. Provide reparation

Victims of torture and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

11. Ratify international treaties

All governments should ratify without reservations international treaties containing safeguards against torture, including the UN Convention against Torture with declarations providing for individual and inter-state complaints. Governments should comply with the recommendations of international bodies and experts on the prevention of torture.

12. Exercise international responsibility

Governments should use all available channels to intercede with the governments of countries where torture is reported. They should ensure that transfers of training and equipment for military, security or police use do not facilitate torture. Governments must not forcibly return a person to a country where he or she risks being tortured.

This 12-Point Program was adopted by Amnesty International in October 2000 as a program of measures to prevent the torture and ill-treatment of people who are in governmental custody or otherwise in the hands of agents of the state. Amnesty International holds governments to their international obligations to prevent and

punish torture, whether committed by agents of the state or by other individuals. Amnesty International also opposes torture by armed political groups.

Appendix 2:

14-Point Program for the Prevention of Extrajudicial Executions (Amnesty International, 1992)

Extrajudicial executions are fundamental violations of human rights and an affront to the conscience of humanity. These unlawful and deliberate killings, carried out by order of a government or with its complicity or acquiescence, have been condemned by the United Nations. Yet extrajudicial executions continue, daily and across the globe.

Many of the victims have been taken into custody or made to "disappear" before being killed. Some are killed in their homes, or in the course of military operations. Some are assassinated by uniformed members of the security forces, or by "death squads" operating with official connivance. Others are killed in peaceful demonstrations.

The accountability of governments for extrajudicial executions is not diminished by the commission of similar abhorrent acts by armed opposition groups. Urgent action is needed to stop extrajudicial executions and bring those responsible to justice.

Amnesty International calls on all governments to implement the following 14-Point Program for the Prevention of Extrajudicial Executions. It invites concerned individuals and organizations to join in promoting the program. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to stop extrajudicial executions and to work for their eradication worldwide.

1. Official condemnation

The highest authorities of every country should demonstrate their total opposition to extrajudicial executions. They should make clear to all members of the police, military and other security forces that extrajudicial executions will not be tolerated under any circumstances.

2. Chain-of-command control

Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit extrajudicial executions. Officials with chain-of-command responsibility who order or tolerate extrajudicial executions by those under their command should be held criminally responsible for these acts.

3. Restraints on use of force

Governments should ensure that law enforcement officials use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life.

4. Action against 'death squads'

"Death squads", private armies, criminal gangs and paramilitary forces operating outside the chain of command but with official support or acquiescence should be prohibited and disbanded. Members of such groups who have perpetrated extrajudicial executions should be brought to justice.

5. Protection against death threats

Governments should ensure that anyone in danger of extrajudicial execution, including those who receive death threats, is effectively protected.

6. No secret detention

Governments should ensure that prisoners are held only in publicly recognized places of detention and that accurate information about the arrest and detention of any prisoner is made available promptly to relatives, lawyers and the courts. No one should be secretly detained.

7. Access to prisoners

All prisoners should be brought before a judicial authority without delay after being taken into custody. Relatives, lawyers and doctors should have prompt and regular access to them. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

8. Prohibition in law

Governments should ensure that the commission of an extrajudicial execution is a criminal offence, punishable by sanctions commensurate with the gravity of the practice. The prohibition of extrajudicial executions and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.

9. Individual responsibility

The prohibition of extrajudicial executions should be reflected in the training of all officials involved in the arrest and custody of prisoners and all officials authorized to use lethal force, and in the instructions issued to them. These officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution. An order from a superior officer or a public authority must never be invoked as a justification for taking part in an extrajudicial execution.

10. Investigation

Governments should ensure that all complaints and reports of extrajudicial executions are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers and resources to carry out the investigation. The methods and findings of the investigation should be made public. The body of the alleged victim should not be disposed of until an adequate autopsy has been conducted by a suitably qualified doctor who is able to function impartially. Officials suspected of responsibility for extrajudicial executions should be suspended from active duty during the investigation. Relatives of the victim should have access to information relevant to the investigation, should be entitled to appoint their own doctor to carry out or be present at an autopsy, and should be entitled to present evidence. Complainants, witnesses, lawyers, judges and others involved in the investigation should be protected from intimidation and reprisals.

11. Prosecution

Governments should ensure that those responsible for extrajudicial executions are brought to justice. This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime. Trials should be in the civilian courts. The perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.

12. Compensation

Dependants of victims of extrajudicial execution should be entitled to obtain fair and adequate redress from the state, including financial compensation.

13. Ratification of human rights treaties and implementation of international standards

All governments should ratify international treaties containing safeguards and remedies against extrajudicial executions, including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints. Governments should ensure full implementation of the relevant provisions of these and other international instruments, including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and comply with the recommendations of intergovernmental organizations concerning these abuses.

14. International responsibility

Governments should use all available channels to intercede with the governments of countries where extrajudicial executions have been reported. They should ensure that training and transfers of equipment, know-how and training for military, security or police use do not facilitate extrajudicial executions. No one should be forcibly returned to a country where he or she risks becoming a victim of extrajudicial execution.

Appendix 3:

14-Point Program for the Prevention of 'Disappearances' (Amnesty International, 1992)

The "disappeared" are people who have been taken into custody by agents of the state, yet whose whereabouts and fate are concealed, and whose custody is denied. "Disappearances" cause agony for the victims and their relatives. The victims are cut off from the world and placed outside the protection of the law; often they are tortured; many are never seen again. Their relatives are kept in ignorance, unable to find out whether the victims are alive or dead.

The United Nations has condemned "disappearances" as a grave violation of human rights and has said that their systematic practice is of the nature of a crime against humanity. Yet thousands of people "disappear" each year across the globe, and countless others remain "disappeared". Urgent action is needed to stop "disappearances", to clarify the fate of the "disappeared" and to bring those responsible to justice.

Amnesty International calls on all governments to implement the following 14-Point Program for the Prevention of "Disappearances". It invites concerned individuals and organizations to join in promoting the program. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to stop "disappearances" and to work for their eradication worldwide.

1. Official condemnation

The highest authorities of every country should demonstrate their total opposition to "disappearances". They should make clear to all members of the police, military and other security forces that "disappearances" will not be tolerated under any circumstances.

2. Chain-of-command control

Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit "disappearances". Officials with chain-of-command responsibility who order or tolerate "disappearances" by those under their command should be held criminally responsible for these acts.

3. Information on detention and release

Accurate information about the arrest of any person and about his or her place of detention, including transfers and releases, should be made available promptly to relatives, lawyers and the courts. Prisoners should be released in a way that allows reliable verification of their release and ensures their safety.

4. Mechanism for locating and protecting prisoners

Governments should at all times ensure that effective judicial remedies are available which enable relatives and lawyers to find out immediately where a prisoner is held

and under what authority, to ensure his or her safety, and to obtain the release of anyone arbitrarily detained.

5. No secret detention

Governments should ensure that prisoners are held only in publicly recognized places of detention. Up-to-date registers of all prisoners should be maintained in every place of detention and centrally. The information in these registers should be made available to relatives, lawyers, judges, official bodies trying to trace people who have been detained, and others with a legitimate interest. No one should be secretly detained.

6. Authorization of arrest and detention

Arrest and detention should be carried out only by officials who are authorized by law to do so. Officials carrying out an arrest should identify themselves to the person arrested and, on demand, to others witnessing the event. Governments should establish rules setting forth which officials are authorized to order an arrest or detention. Any deviation from established procedures which contributes to a "disappearance" should be punished by appropriate sanctions.

7. Access to prisoners

All prisoners should be brought before a judicial authority without delay after being taken into custody. Relatives, lawyers and doctors should have prompt and regular access to them. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

8. Prohibition in law

Governments should ensure that the commission of a "disappearance" is a criminal offence, punishable by sanctions commensurate with the gravity of the practice. The prohibition of "disappearances" and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.

9. Individual responsibility

The prohibition of "disappearances" should be reflected in the training of all officials involved in the arrest and custody of prisoners and in the instructions issued to them. They should be instructed that they have the right and duty to refuse to obey any order to participate in a "disappearance". An order from a superior officer or a public authority must never be invoked as a justification for taking part in a "disappearance".

10. Investigation

Governments should ensure that all complaints and reports of "disappearances" are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers and resources to carry out the investigation. The methods and findings of the investigation should be made public. Officials suspected of responsibility for "disappearances" should be suspended from active duty during the investigation. Relatives of the victim should have access to information relevant to the investigation and should be entitled to present evidence. Complainants, witnesses, lawyers and others involved in the investigation should be protected from intimidation and reprisals. The investigation should not be curtailed until the fate of the victim is officially clarified.

11. Prosecution

Governments should ensure that those responsible for "disappearances" are brought to justice. This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime. Trials should be in the civilian courts. The perpetrators should not benefit from any legal measures exempting them from criminal prosecution or conviction.

12. Compensation and rehabilitation

Victims of "disappearance" and their dependants should be entitled to obtain fair and adequate redress from the state, including financial compensation. Victims who reappear should be provided with appropriate medical care or rehabilitation.

13. Ratification of human rights treaties and implementation of international standards

All governments should ratify international treaties containing safeguards and remedies against "disappearances", including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints. Governments should ensure full implementation of the relevant provisions of these and other international instruments, including the UN Declaration on the Protection of All Persons from Enforced Disappearance, and comply with the recommendations of intergovernmental organizations concerning these abuses.

14. International responsibility

Governments should use all available channels to intercede with the governments of countries where "disappearances" have been reported. They should ensure that transfers of equipment, know-how and training for military, security or police use do not facilitate "disappearances". No one should be forcibly returned to a country where he or she risks being made to "disappear".

