

fidh

Fédération internationale des ligues des droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

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for Human Rights

Federación Internacional
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الفدرالية الدولية لحقوق الانسان

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To the Attention of the Third Committee on Social,
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INTRODUCTION

On the occasion of the 61st session of the UN General Assembly, the International Federation for Human Rights (FIDH) presents its Position Paper which documents the priorities for which FIDH requires the Third Committee on Social, Humanitarian and Cultural Affairs of the General Assembly to act on.

The situation of human rights violations throughout the world, from both country and thematic perspectives, needs to be effectively assessed and thoroughly debated at the Third Committee. The resolutions that will be adopted this fall must demonstrate the impeccable allegiance of the United Nations system to all human rights and fundamental freedoms.

Echo the voices of the victims and condemn human rights violations

FIDH wishes that throughout the work of this session, the Third Committee of the General Assembly, which work focuses on human rights issues, will be led by an untarnished commitment to echo the voices of the victims of human rights violations, the voices of the voiceless. When freedom to defend human rights is repressed, when people are killed or imprisoned solely for having exercised their rights, it is the duty of the international community to condemn the violations and work together on putting an end to them through peaceful means. Adopting resolutions is one of these means. We hope that members of the Third Committee will hear victims' voices and give full significance to the mandate with which they are entrusted.

Main recommendations

FIDH Position Paper for this session of 2006 documents the human rights situations of some countries where FIDH considers that there has been a significant degradation, requiring a reaction on behalf of the General Assembly.

We would hence require the Third Committee of the General Assembly to condemn *inter alia* the intensification of the repression of all forms of freedom of expression in **Iran**, the massive human rights violations that have occurred in **Andijan**, **Uzbekistan**, and the repression that followed it.

FIDH also urges the Third Committee to take action on the tragic situation in **Darfur, Sudan**, and advocate for the deployment of an

international peacekeeping force in that region; and to address the worsening human and civil rights situation of political opponents and ethnic minorities in **Burma**, caused by the military junta in power. FIDH further calls for the human rights situation in **Belarus** to be thoroughly debated and acted upon.

From a thematic perspective, FIDH strongly hopes to see the General Assembly adopt this fall, by consensus, the Draft of the ***International Convention for the Protection of All Persons from Enforced Disappearances***, which is the result of decades of efforts in order to obtain the criminalization of enforced disappearances and the rights of all victims to reparation. This Convention represents an *invaluable* tool in the world fight against impunity.

FIDH wishes to see the issue of the ***Protection of Human Rights Defenders*** and of the ***Protection of Human Rights and fundamental freedoms while countering terrorism*** to be equally addressed and acted upon by the Third Committee.

Violence against women being desperately a current and serious concern which often undermines all other human rights women may enjoy, FIDH strongly encourages the Third Committee to act upon this issue and to follow the recommendations included in the recent UN in-depth study.

FIDH also advocates for the adoption by consensus by the General Assembly of the ***Declaration on the Rights of Indigenous Peoples***, a declaration that would finally address the rights of Indigenous peoples to be free from violations of their fundamental human rights which express themselves through systemic discrimination, historic injustices and ongoing marginalization.

GEOGRAPHIC PRIORITIES

1. SUDAN / DARFUR

FIDH calls upon the Third Committee of the General Assembly to adopt a resolution condemning the serious violations of human rights and humanitarian law and urging Sudan to accept the deployment of an international peacekeeping mission in accordance with resolution 1706 of the United Nations Security Council.

Serious violations of human rights and humanitarian law committed in Darfur

The 3 year conflict has already led to the death of more than 200,000 people and the displacement of 2.5 millions in Sudan, Chad and Central African Republic. Despite the 2004 Ceasefire agreement and the recent signature of the Darfur Peace Agreement (DPA), the parties continue to kill and rape in total impunity and in violation of the international humanitarian law. As noted by the UN High Commissioner for Human Rights' Fourth Periodic Report on the human rights situation in Sudan of July 25, 2006, there has been « no evolution in the human rights situation in the Darfur ». The civilians continue to face daily attacks by the Sudanese forces, Janjawid and the different factions of the rebels groups. Humanitarian workers and AMIS soldiers are being attacked and killed. The conflict has now dangerously extended to Chad and Central African Republic. In addition, according to a recent UN report, children are being recruited by rebel groups, including the Sudan Liberation Army and opposition Chadian forces, Janjawid and Sudanese armed forces, to serve in their ranks.

The necessity to deploy an international peacekeeping mission in Darfur in order to protect Darfurians

After 3 years of conflict, FIDH considers that Sudan is unwilling and unable to protect Darfurians and opposes the recent Sudanese proposal to send local troops in Darfur.

FIDH welcomes the adoption of resolution 1706 by the UN Security Council calling for the deployment of an international peacekeeping mission in Darfur no later than October 1, 2006. FIDH strongly supports such a deployment and

urges Sudan to consent to it.

Yet, while the United Nations Secretary General and the Security Council are trying to secure Sudan's consent to a transition to a UN operation in Darfur, the end of the AMIS mandate, due on September 30, 2006, might leave the population of Darfur without protection. It is therefore of utmost importance that AMIS mandate be renewed and strengthened until the effective deployment of an United Nations international peacekeeping mission.

Consequently, FIDH urges the Third Committee of the General Assembly to adopt a resolution:

- condemning the serious violations of human rights and humanitarian law;
- urging Sudan to accept the deployment of an international peacekeeping mission in accordance with resolution 1706 of the UNSC;
- asking the AU Peace and Security Council to renew and strengthen AMIS' mandate to guarantee a better protection of the civilians until the deployment of an international peacekeeping mission;
- asking for the renewal of the mandate of the Independent Expert on the human rights situation in Sudan
- asking all UN member states to take all diplomatic measures to secure Sudan's consent to a UN mission in Darfur in accordance with resolution 1706 of the UN security Council;
- urging the parties to the Darfur conflict:
 - to put an end to the violations of human rights and international humanitarian law against civilians, humanitarian workers and AMIS forces,
 - to respect the ceasefire agreements, the DPA and all UN resolutions,
 - to implement the recommendations contained in the Fourth Periodic Report of the United Nations High Commissioner for Human Rights on the human rights situation in Sudan of July 25, 2006.
- calling upon the Sudanese authorities to:
 - withdraw their proposal to deploy their own troops in Darfur;
 - disarm its militias including the Janjawid;
 - re-engage in a political dialogue with the non signatories of the DPA;
 - hold accountable perpetrators of international crimes and serious violations of human rights and to fully cooperate with the ICC organs in accordance with UNSC resolution 1593 referring the Darfur situation to the ICC;

- to respect regional and international human rights instruments ratified by Sudan, as well as international customary law.

2. ISLAMIC REPUBLIC OF IRAN

FIDH and the Ligue de Défense des Droits de l'Homme en Iran (LDDHI) express their deep concern regarding the deterioration of the human rights situation in Iran.

Freedom of expression

Over the past months, the Iranian government has intensified its repression of human rights defenders¹.

On 12 June 2006, a peaceful gathering in Tehran, organized by representatives of women's rights NGOs and student associations to protest against discrimination against Iranian women, was violently attacked by the police. Many of those attacked were women and students and several dozen activists were arrested and taken to unknown locations. On 13 June 2006, the Minister of Justice stated that 42 women and 28 men had been arrested and detained in the Evin prison in Tehran for organizing an illegal gathering. According to information received by FIDH and LDDHI, one of those arrested, Mr **Ali-akbar Moussavi Khoini**, is still detained.

On 31 July 2006, Mr **Akbar Mohammadi**, a student activist, died in custody in the Evin prison, following a hunger strike. Mr Akbar Mohammadi had been detained since 1999 for his participation in peaceful student demonstrations, and was serving a 15-year sentence. According to information received and documented by FIDH and LDDHI, the trial of Mr. Mohammadi was characterized by numerous violations of the right to a fair trial. Reliable sources have reported his ill treatment whilst in custody, and the circumstances of his death remain unclear. Meanwhile, the Iranian authorities have failed to conduct an investigation into his death.

On 3 August 2006, the Ministry of the Interior declared the *Defenders of Human Rights Centre* (DHRC), a member organization of FIDH, to be an illegal organization and threatened those who continued its activities with prosecution. The DHRC, co-founded in 2002 by Ms **Shirin Ebadi**, Iranian lawyer and Nobel Peace Prize winner in

2003, provided legal advice to dissidents, journalists and students facing prosecution for exercising their fundamental rights. Since its creation, its members have been subjected to repeated acts of intimidation and harassment by the authorities.

On 16 July 2006, the Revolutionary Court of Tehran sentenced Mr **Abdolfattah Soltani**, lawyer and founding member of the DRHC, to 5 years imprisonment on charges of disclosing classified information, in connection with his role as defense lawyer in the case of Ms. Kazemi, an Iranian-Canadian photographer who died in 2003, following torture and ill treatment in custody. Mr Soltani had called into question the fairness and independence of her trial. Ms Shirin Ebadi was summoned on 12 January 2005 by the Revolutionary Public Prosecutor's office, and threatened with arrest and prosecution. No reasons were given for the summons. Mr **Nasser Zarafchan**, lawyer, was arrested in August 2002 and sentenced to 5 years imprisonment in connection with statements made about the regime's role in the murder of intellectuals in 1988. He has been denied access to medical treatment following severe illness and his requests for medical leave have been blocked by the Chief Prosecutor of Tehran. He remains in detention despite his deteriorating health.

The Special Representative of the Secretary-General on human rights defenders has raised serious concerns about the restrictions on human rights defenders imposed by the Government, and in particular cases of arrest and alleged torture and ill-treatment of defenders in custody and during detention².

The situation in respect of political prisoners and prisoners of opinion has further deteriorated in 2006. A hunger strike movement is developing in Iranian prisons. NGOs are not permitted to visit these prisoners and their families often fear contacting NGOs, with the result that dozens of individuals are detained without outside knowledge of their identities.

Valiollah Feyze-Mahdavi was sentenced to death following a trial in 2000 in which he was denied

¹ See the urgent appeals of the Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and OMCT and the 2005 annual report of the Observatory.

² Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani - *Compilation of developments in the area of human rights defenders*, CHR, 62nd Session, 6 March 2006, E/CN.4/2006/95/Add.5, §§ 789

access to a lawyer, for supporting a Mujahedin organization. His death was announced on 6 September 2006. He had been hospitalized, following a 9-day hunger strike in protest against the conditions of his detention, although the authorities have claimed he committed suicide. The authorities have failed to conduct an investigation into his death.

The death of Mr Feyze-Mahdavi also raises more general concern about the treatment of prisoners, coming within 5 weeks of that of another prisoner, human rights defender **Akbar Mohammadi**, on July 30, 2006.

Several journalists and web-loggers remain in prison. Mr **Mojtaba Saminejad**, a web-logger and student at Tehran University, was sentenced to two-years' imprisonment in June 2005 for "insulting the Supreme Guide". In July 2005, he was sentenced to a further 10 months in prison for incitement to immorality. In January 2006, Mr **Arash Sigarchi**, journalist and blogger, was sentenced to 3 years' imprisonment for "insulting the Supreme Guide" and "propaganda against the regime". Suspended sentences are also often used to silence journalists.

. **Roozbeh Mirebrahimi**, **Omid Memarian**, **Shahram Rafizadeh** and **Javad Golam-Tamimi** were arrested in 2004 and then released on bail. Their trials will take place on 28 October 2006.

Mr Akbar Ganji, journalist at the daily newspaper *Sobh-e-Emrooz*, was finally released on 18 March 2006 after serving a sentence of 6 years' imprisonment following conviction for undermining national security and spreading propaganda against institutions of the Islamic Republic. During the last period of his detention he had been held in solitary confinement at the Evin Prison and denied access to necessary medical treatment.

The Iranian authorities continue harassment of trade unionists. Five trade unionists were sentenced to imprisonment on 9 November 2005: **Mr Mahmoud Salehi** (5 years), **Mr Jalal Hosseini** (3 years), **Mr Mohsen Hakimi** (2 years), **Mr Borhan Divangar** (2 years) and **Mr Mohammed Abdipoor** (2 years). They were all convicted of association with the banned political association Komala.

Mr Mansour Osanloo, Chairperson of the public transportation union *Sherkat Vahed*, was released

on 9 August 2006, following over seven months of detention at the Evin Prison. He had been arrested on 22 December 2005 for forming an "illegal union". 12 other leaders of the union were arrested in January 2006 for having announced a strike. They have also since been released.

Several students remain in prison in connection with the protests of 1999, including: **Mehrdad Lohrasebi** and **Abbas Deldar**, sentenced to 15 years in prison; **Javid Tehrani**, sentenced to 7 years in prison, freed four years later, and re-arrested in June 2004; **Peyman Piran**, sentenced to 10 years in prison; **Bina Darab-Zand**, sentenced in October 2004 to 3 years and 6 months in prison. In addition, the student organization *Tahkim Vahdat* announced on December 23, 2005 that several of its leaders had been sentenced to imprisonment at hearings held *in camera* in December 2005: **Ali Afshari** (6 years), **Akbar Atri** (5 years), **Abdollah Momeni** (5 years), **Ahmad Faraji** (3 years), **Amir Balali** (1 year) and **Farid Modaresi** (8 months). These persons have subsequently been released.

Ahmad Batebi, arrested in 1999 and sentenced to death, subsequently reduced to life imprisonment, was freed in 2005 for health reasons. At the beginning of August 2006 he was arrested again and is currently in detention. According to Mr Batebi's wife, his life is in danger in detention, since he suffers from serious ill-health.

On 28 April 2006, Mr **Ramin Jahanbegloo**, an academic of joint Iranian and Canadian nationality, was arrested at the airport in Tehran as he was awaiting a flight to Europe. According to statements by the authorities his arrest was linked to his contacts abroad. He was detained for 4 months, without any formal charges, at the Evin Prison. On 30 August 2006, he was finally released but remains on bail.

The rights of minorities

Discrimination based on religion and ethnic origin remains widespread. Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities (art.13 of the Iranian Constitution).

There are clear signs that the discrimination against the Baha'i community is on the rise. At least 59 Baha'is were arrested, detained or imprisoned in 2005. The Special Rapporteur on freedom of religion or belief has expressed her concern over the continued persecution of

members of the Bahá'í community³.

Mr. Dhabihu'llah Mahrami, who spent 10 years in jail accused of spying for Israel, died in prison of unknown causes on December 15, 2005. Although Mr. Mahrami was formally accused of spying for Israel, court records indicate that he was tried and sentenced on the charge of being an apostate.

Iranian authorities reportedly continue to bar Baha'is from access to university despite a specific recommendation to put an end to that practice made by CERD in July 2003. A large number of Baha'i students passed the national university entrance examination in July 2005. It was not necessary to declare a religious affiliation in order to take the exam. However, when they got their results, they saw that they had been falsely recorded as Muslims.

Kurds are barred from teaching the Kurdish language in schools and restrictions are imposed on the publication of Kurdish literature. Kurdish cities are among the least developed in the country with high levels of unemployment.

Following the killing of a Kurdish opposition activist by Iranian security forces in the city of Mahabad on 9 July 2005, demonstrations erupted in the neighbouring towns with large Kurdish populations. It has been reported that 5 persons were killed by the security forces; other sources estimate that the number of civilians dead varies between 12 and 20 persons. The Iranian authorities did not carry out an independent enquiry in those events, in spite of the fact that the security forces clearly used excessive force against unarmed civilians. Many demonstrators were arrested, including Kurdish human rights activists and journalists. Amongst those arrested were: **Mr. Mahmoud Salemi**, arrested on 4 August 2005 for participating in demonstrations in Saqez; **Mr. Borhan Divangar**, a member of the Saqez Bakery Workers' Union; **Ms. Roya Toloui**, a women's rights activist (released on bail on 5 October 2005); **Mr. Azad Zamani**, a member of the Association for the Defence of Children's Rights; **Mr. Madeh Ahmadi**; **Mr. Ejalal Ghavami**; and **Mr. Saïd Saedi**. Other Kurdish journalists arrested in July and August

2005 are reportedly still in prison, including **Mr. Mohammad-Sadigh Kaboudvand**, Director of the weekly newspaper *Payamkurdistan*, who was sentenced to 18 months in prison in August 2005 for upsetting public opinion and spreading separatist ideas. On 26 November 2005, 3 Kurdish activists had their convictions and sentences confirmed by the Supreme Court: **Reza Amini** (20 years in prison), **Hemat Azarpour** and **Abdollah Mohammadi** (15 years).

Saman Rasoulpour, human rights activist, was arrested in Mahabad in March 2006 and sentenced to 2 years imprisonment.

In the region of Khuzestân, tens of persons belonging to the Arab minority were arrested at the end of 2005, after protests for increased autonomy (the right to publish in Arabic, etc). Violent clashes erupted between the police and protesters, resulting in a number of injured. Many of those arrested were tried and convicted in closed hearings which violated the right to a fair trial.

The death penalty

The Islamic Republic of Iran continues to apply the death penalty under conditions which flagrantly violate international standards. Iran is one of two countries which currently executes child offenders, the other being Pakistan. No official statistics on the numbers of condemnations and executions are available and independent sources of information are very fragmented. It is clear however that the numbers of death sentences and executions have been rising over the past months.

Iranian law violates the ICCPR according to which the death penalty must be restricted to the most serious crimes only. The Islamic penal law provides for the death penalty for crimes such as: adultery of a married woman with a man, heresy, homosexual acts, fornication of a non-Muslim with a Muslim woman, fornication with the wife of one's father.

24 individuals were sentenced to the death penalty in June and July 2006, following closed hearings before Revolutionary Courts, which clearly violated the provisions of the ICCPR on the right to a fair trial. The defendants had been charged in connection to the violent clashes in Khuzestân. According to information received by LDDHI, the defendants did not have access to legal representation and not even their identities were made public. In August 2006, the Minister of

³ *Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir - Summary of cases transmitted to Governments and replies received*, CHR, 62nd Session, 27 March 2006, E/CN.4/2006/5/Add.1, at §§ 209 -210

Justice declared that six individuals would be executed in the coming days. Only their first names were revealed by the authorities: **Mohammad-Ali, Yaha, Nazem, Abdolemam, Andozahra, Hamzeh**

Children under 18 years old at the time of the offence are executed, in violation of the Convention on the Rights of the Child. In 2005, several executions of child offenders were recorded. **Mahmoud Asgari** (16 years) and **Ayaz Marhoni** (18 years) were hung in Mashhad in July 2005. They were sentenced to death for following convictions for the rape of a 13 years old child. **Rostam Tajik**, of Afghan nationality, who was minor at the time of the offence, was executed in December 2005.

Lack of cooperation with the Special Procedures

The Special Representative of the Secretary-General on human rights defenders, between the establishment of her mandate and 1 December 2005, sent 24 communications to the Government of Iran concerning 27 defenders and in one case three family members of a defender⁴. The Special Representative has noted that, “in many of its responses, the Government denied or failed to comment upon the alleged violations”. The Special Representative further expressed her concern that the fact that several defenders were the subjects of repeated urgent appeals “suggests a lack of prompt measures on the part of the Government to put an end to on-going violations against defenders”⁵.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has raised concerns at “the inadequacy of the information” received in response to communications⁶.

⁴ Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani - Compilation of developments in the area of human rights defenders, *CHR, 62nd Session, 6 March 2006, E/CN.4/2006/95/Add.5*, § 786

⁵ Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani - Compilation of developments in the area of human rights defenders, *CHR, 62nd Session, 6 March 2006, E/CN.4/2006/95/Add.5*, § 787 and Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani - Summary of cases transmitted to Governments and replies received, 62nd Session, 22 March 2006, E/CN.4/2006/95/Add.1, § 267

⁶ Report of the Special Rapporteur on the promotion

The Special Rapporteur on Freedom of Religion or Belief has highlighted that the Iranian government has failed to respond to many urgent appeals, and that those responses which have been received are mostly incomplete⁷.

Conclusions and recommendations

FIDH and LDDHI urge the Third Committee of the General Assembly to adopt a resolution on the human rights situation in Iran and call for the appointment of a Special Rapporteur on Iran.

FIDH and LDDHI believe the resolution should call upon the Iranian authorities:

- To immediately and unconditionally free all those arbitrarily detained;
- To guarantee the physical and psychological safety of all those detained;
- To conduct effective investigations into allegations of violations of human rights;
- To implement the recommendations of the UN human rights mechanisms and treaty bodies;
- To put an end to discrimination against minorities;
- To abolish corporal punishment within the judicial system;
- To abolish the death penalty;
- Pending full abolition of the death penalty to adopt an immediate moratorium on executions as a first step towards abolition.
- To ratify CAT, CEDAW and the Statute of the ICC, without incompatible reservations;
- To submit periodic reports in accordance with obligations under the ICCPR and the ICESCR.

and protection of the right to freedom of opinion and expression, Ambeyi Ligabo - Summary of cases transmitted to Governments and replies received, 62nd session, 27 March 2006, E/CN.4/2006/55/Add.1, § 454

⁷ See also Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir - Summary of cases transmitted to Governments and replies received, *CHR, 62nd Session, 27 March 2006, E/CN.4/2006/5/Add.1*, at §208

3. UZBEKISTAN

FIDH expresses its deepest concern at the serious rollback of the rule of law and human rights in Uzbekistan. Dangerous trends which were noticed in recent years became especially flagrant with and following the Andijan's events.

Andijan

On 13 May 2005, in Andijan - a town of 300,000 inhabitants situated in the valley of the Ferghana - the army opened fire on thousands of demonstrators (between 10,000 and 30,000) who had gathered in the town centre to protest against the trial of 23 people accused of belonging to the radical Islamic group, Akramia, and to demand an improvement of living conditions. During the night of 12 to 13 May, weapons were taken from a military building by men who took the regional administration and the high security prison in Andijan by storm, releasing the 23 accused and more than a thousand inmates.

Fearing for their safety, hundreds of civilians have crossed the border into Kyrgyzstan where several refugee camps have been set up.

Andijan was cordoned off by a huge military and police presence. Hundreds of people have been arrested and shots were heard in Andijan during the night of 16 to 17 May 2005. Some eyewitnesses have mentioned the existence of communal ditches which have been dug in the public parks to hide any trace of the extrajudicial executions.

President Karimov denied giving the order to fire on the crowd and accused Islamic extremists of using women and children as human shields. On 13 and 14 May 2005 there has been a news blackout, with access to foreign media blocked throughout Uzbekistan, several journalists expelled from the town and some independent media closed.

The process which followed these events was totally unfair, conducted with the most flagrant violations of all international standards. The detainees confessed to the charges under torture or coercion, witnesses supported the government's version of events, the defense didn't have any role to play. In September 2005, Louise Arbour, UN Commissioner for Human Rights, declared that these trials had been «marred by allegations of irregularities and serious questions remained about its fairness. ».

In his annual report published on March 27 2006, the Special Rapporteur on Extrajudicial, summary or arbitrary executions expressed his «concern at the major contradictions between the Government of Uzbekistan's account of the deaths that occurred in Andijan on 13 May 2005 and the many consistent allegations from other sources. » The Uzbek government did not give adequate and substantive answers to the numerous allegations sent by the Rapporteur and by the Special Rapporteur on Freedom of expression.

Moreover, on 10 August 2006, Louise Arbour expressed her grave concern at the deportation of four Uzbek refugees and an asylum seeker who had left the country Andijan events by the Kyrgyz Republic to Uzbekistan. The extradition exposes them to a serious risk of being subjected to torture and is in violation of the non-refoulement principle contained in article 3 of the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment. It has to be noted, that Uzbek secret services seek to get post-Andijan asylum seekers back from other countries as well. Refugees are deported or risk extradition in violation of international standards to which their host countries are party.

Repression against human rights defenders and civil society organizations

Government authorities severely muzzled the civil society in order to destroy all voices trying to speak out in the Andijan tragedy and its consequences. Today, the repression of human rights defenders is systematic. It takes various forms, including criminal prosecutions based on politically-motivated charges.

Some non-governmental organizations were closed, like the Bukhara Centre for Humanitarian Law or Internews. Others are a target of permanent harassments and attacks, as members of the Human Rights Society of Uzbekistan (HRSU) as highlighted by the Observatory for the protection of Human Rights Defenders (FIDH and OMCT joint program).

Mr. **Bakhtior Khamroev**, head of the Djizak section of the Human Rights Society in Uzbekistan (HRSU), was attacked at his home, in Djizak, on August 18, 2006 as he was having a meeting with two representatives of the British Embassy in Uzbekistan, who had come to visit him to inquire into the human rights situation in Djizak and into the situation of his son, Mr. **Ikhtior Khamroev**, who has been detained since August 2, 2006.

He was attacked by four women and one man who hurt him with a metallic object, which caused him a concussion to the head. In the meantime, four representatives from Djizak town hall arrived and told Mr. Khamroev that he had to stop his human rights activities. Mr. Khamroev had not called them to inform them of the situation. He was then brought to the hospital where he received emergency care, but the doctors refused to follow his case and to open a medical file, which would have implied the report of the situation to the police.

On May 24, 2006, Mr. **Arabboi Kadirov**, Head of the human rights NGO *Ezgulik* in the Pop district, in the region of Namagan, was arrested at his home, for “suspicion of document falsification”. The police, which had an arrest and search warrant, seized his computer and several documents related to his human rights activities. Mr. Kadirov would reportedly be detained in custody in a police station of the Pop Region.

In October 2005, police arrested **Mukhtabar Tojibaeva**, an outspoken critic of the government and chairwoman of the Burning Hearts human rights club in Margilan, on the eve of her departure for an international conference for human rights defenders at risk. On March 6, 2006, Mrs. Tojibaeva was sentenced to an eight-year prison term by the court of Dustobod, Urta Chirchik rayon court, in Tashkent oblast, for 17 different charges - mostly economic -, including “slander” (article 139.3 of the Criminal Code) and “membership of an illegal organization” (article 244). Since the beginning of her detention in October 2005, Mrs. Tojibaeva has not been allowed to meet her lawyers in private, and several defence witnesses were ordered to leave the Court before giving their statements.

Mrs. Tojibaeva was detained since July 2006 in a psychiatric service for mentally ill and drug-addicted persons in a women’s detention centre in Tashkent in extremely harsh conditions. It, conducted her to write a goodbye letter to her relatives, in which she stated that she would not survive much longer in such conditions. Moreover, Mrs. Tojibaeva is not allowed to receive the visit of her relatives and lawyers.

Furthermore, these events take place in a context of an increasing control of the authorities over NGOs activities, in particular since the signature of restrictive amendments on freedom of association in January 2006. This text provides, amongst other things, that the organization of any

meeting or assembly requires the previous authorization of the competent national authorities, and that the support or funding of “political activities” by an organization will be sanctioned by a fine.

Besides, these amendments also aim at dissuading foreign NGOs from participating in the political situation of the country (article 239 of the Criminal Code), for example by means of any activity led by political parties or “mass movements”. The involvement of a foreign NGO in such activities will be sanctioned by a valuable fine.

Furthermore, these new provisions allow for an important growing heaviness of many other fines, sanctioning for example “libel” (multiplication by four of the maximum amount of the fine), “insult” (article 159) or the “dissemination of documents of which the content may be a threat to the public security and order” (article 244.1), etc.

Administration of Justice and death penalty

The judiciary remains wholly dependent on political authorities and largely corrupted, as documented by an FIDH fact finding mission sent in the country in May 2005.

Moreover, although on August 1 2005, a presidential decree announcing that the death penalty will be abolished on January 1st, 2008, was adopted, the death penalty is still practiced in this country. Several hundreds of persons have been sentenced to death and executed since the country became independent in 1991, accused of terrorism or murder with aggravating circumstances, without the chance to argue their rights.

It is currently impossible to know exactly how many people are condemned to death each year as the government has failed to publish comprehensive statistics about the number of death sentences and executions. As a result, depending on the source, the number of execution a year in Uzbekistan falls somewhere between 52 and 780.

Persons arrested see their rights blatantly violated: the time limits for the detention in custody are violated; they are not informed about their rights, corruption prevails; legality of detention is not a subject to judicial control; defendant's relatives are not informed; lawyers are victims of all kinds of pressure in order to dissuade them from defending their clients.

A number of testimonies given first-hand to the FIDH representatives in May 2005 confirm that many people are condemned to death based on confessions obtained under torture and that corruption is an integral part of investigation, trial and appeal process in such cases.

In his annual report for the 62nd Commission on Human Rights, The Special Rapporteur on extrajudicial, summary or extrajudicial executions underlined that he did not receive any answer from the Uzbek authorities to his urgent appeal concerning the reported imminent execution of Farid Nasibullin whose confessions which led to his death sentence were obtained under torture.

Conditions of detention awaiting execution amount to cruel, inhuman or degrading treatment: in addition to the small size of the cells, the lack of proper food and exercise, the lack of proper bedding and the very strict censure of correspondence, the secrecy surrounding executions increase the suffering of both prisoners and their families. Neither the prisoner, nor their family, is informed of the date of execution. The continuing secrecy around the date, place of execution and burial is needlessly cruel to relatives. The bodies of the condemned are never returned to their families. The UN Special Rapporteur on Torture as well as the UN Human Rights Committee consider that this practice constitutes cruel, inhuman or degrading treatment, prohibited under international human rights instruments ratified by Uzbekistan.

The FIDH welcomed the presidential decree announcing the abolition of the death penalty in 2008 but regrets that it is not provided for with immediate effect or, as a minimum, that a moratorium is not adopted on executions until full abolition will be in force.

Recommendations

FIDH requests the Third Committee of the General Assembly to recognize the gravity of the situation prevailing in Uzbekistan and adopt a resolution by which it publicly condemns it.

The resolution should also urge the Uzbek authorities to, *inter alia*:

- cooperate fully with the Independent expert of the 1503 procedure, as well as with the different UN Human Rights Special Mechanisms,
- make possible an international mission of investigation into the events in Andijan and to

establish accountability for the acts of violence,

- take immediate and concrete steps to tackle endemic corruption, investigate corrupt officials and prosecute to the full extent of the law,
- guarantee the independence of the judiciary in conformity with the ICCPR and the UN Basic Principles on the Independence of Judiciary,
- to guarantee the physical and psychological integrity of all citizens and the observance of human rights in accordance with its international and regional undertakings,
- cease harassment and intimidation of people whose views differ from the authorities,
- treat the Uzbek refugees extradited to Uzbekistan from the other countries in accordance with international obligations and to release them from detention or promptly charge and try them in accordance with international fair trial principles,
- to put an end to all acts of harassment and reprisals against human rights defenders in Uzbekistan in conformity with the Declaration on Human Rights Defenders, adopted by the United Nations' General Assembly on December 9, 1998,
- render its laws on the freedom of association consistent with international human rights law,
- adopt an immediate moratorium on the executions till the death penalty will be completely abolished ,
- more generally, conform with the provisions of the Universal Declaration on Human Rights, and with all other international human rights instruments to which Uzbekistan is a party,
- The resolution should also urge the Russian, Ukrainian, Kyrgyz and Kazakh authorities to, *inter alia* refrain from further deportation of refugees and asylum seekers to countries where there are substantial grounds to believe that they would face an imminent risk of grave human rights violations, including torture, and where their life is in danger, as in Uzbekistan where the death penalty is still practiced and the right to a fair trial is not guaranteed.

4. BELARUS

FIDH and VIASNA Human Rights Center deplore the further deterioration of human rights in Belarus in 2005. Repression against political opponents increased, new discriminatory law criminalising civil and human rights activities was adopted, violations of freedom of expression, freedom of association and peaceful assembly continued.

Political sentences

The number of imprisoned political opponents increased in Belarus in 2005. On May, 31 Mr Statkevitch, politician, and Mr Sieviaryniets, leader of the youth organization «Young Front» were sentenced to three years of restriction of freedom (forced labor) for organization of a peaceful protest action in Minsk on October 18-19, 2004 to contest the results of the parliamentary election and of the referendum. Following an amnesty, their sentences were reduced by one year of prison.

Mr Klimov, ex-member of the Supreme Soviet (parliament) was sentenced to 1,5 year of restriction of freedom (forced labour) for organization of the peaceful action on March, 25 demanding President Lukashenko to resign.

Valeri Levonevsky, Sergei Skrebets and Mikhail Marinich, political opponents of the regime, arrested in 2004 for their political and civil statements, remain in prison.

In 2005, Union of Poles in Belarus, big and well represented association, became a political target of the authorities which provoked a crisis in the relations between Poland and Belarus. In August, 2005 a criminal case was opened against Mr. Pachobut, editor-in-chief of the magazine of Union of Poles in Belarus «Magazyn Polski», as well as against Mr. Kevlyak, vice-chairman of the Union of Poles in Belarus, against Mr. Pisalnik, press-officer of this union, and Mr. Pozhezky, editor-in-chief of the newspaper «Glos z-nad Nemna».

Freedom of association and freedom of expression

New amendments to Belarusian Criminal Code which strengthen penal responsibility concerning “acts against people and public security” were

adopted following two readings before the Belarusian Parliament, respectively on November 23 and December 8, 2005. The amendments were signed by President A. Lukashenko on December 13, 2005 and entered into force on **January 14, 2006**. They constitute an additional tool for the authorities to crackdown on the independent civil society in particular in the context of the organization of the next presidential election, advanced from July to March 2006.

According to the Observatory for the protection of human rights defenders (joint programme of FIDH and the World Organization against Torture), the new amendments (Article 193.1) stipulate that anyone who organizes activities in the framework of a non-registered or liquidated association may face a fine and be arrested and detained for up to six months. In serious cases (for which there is no definition), one can be subjected to a “deprivation of freedom” sentence for a period up to two years. Human rights defenders might be particularly targeted by this new disposal, since most of independent human rights NGOs were liquidated during the past three years, and since reasons for liquidation were even broadened in the recent “Law on Public Association”, adopted in August 2005. As a consequence, it will become extremely difficult for independent organizations to exist as such and conduct activities.

Moreover, any person who provides training or any other type of education aiming at participating in “mass riots”, or any person who funds such activities, may face a prison term up of to six months, or be sentenced to a “deprivation of freedom” sentence of three years (article 293 part 3 “mass riots”). Also, any person who provides training or any other form of education, aiming at the participation in “group activities which seriously violate public order”, or any funding or other material assistance of such activity, may be sentenced to prison for up to six months, and to a “deprivation of freedom” sentence of up to two years (article 342 part 2).

According to human rights defenders, these articles are used against organizers and participants of peaceful actions of protest (Severynets, Statkevich, Klimau (342), Liashkevich (293 part 3)).

Furthermore, these amendments provide very serious infringements to freedom of information.

Indeed, the new amendments stipulate that “providing false information to a foreign State or international organizations, concerning the political, economical, military or international situation of the Republic of Belarus, as well as on the judicial situation of Belarusian citizens, which discredits the Republic of Belarus or its power instances”, is punishable by either a six-month prison term or a two-year “deprivation of freedom” sentence (Article 369.1). The amendments also state that any person who would communicate with foreign States or international organizations, “to the detriment of internal security, sovereignty or territorial integrity”, as well as disseminate material with such content, could be sentenced to prison up to six months or deprivation of freedom of up to three years (Article 361 parts 1 and 2). If such information was distributed through mass media, the “perpetrators” could be sentenced from two to five years in detention (Article 361 part 3).

Civil society in Belarus has already started to pay a high price as a result of these amendments. Indeed, four members of Initiative Partnership, an independent and unregistered election monitoring group in Minsk, were condemned in August 2006 to prison sentences for “illegal organisation of activities by an association or a foundation, or participation in their actions” (article 193.1 of the Belarussian Criminal Code). **Eniro Bronizkaya** and **Aleksandr Shalayko** were sentenced to six months' imprisonment, **Tsimofey Dranchuk** to one year and **Nikolay Astreyko** to two years. Dranchuk and Astreyko are currently detained incommunicado in the Department of Internal Affairs of the Minsk Executive Committee (Minsk city police), awaiting the outcome of their appeal to the Court of Appeal.

These amendments followed the “Law on Public associations”, adopted on August 1, 2005, which facilitated the suspension or liquidation of independent organizations by broadening the reasons for sanction against them. The law also strengthened the control of the authorities over NGOs, and created new obstacles to the registration of organizations, as well as an increased takeover over their funding and activities.

In 2005, 68 associations were liquidated by the Ministry of Justice following the court decisions, and 43 others declared their auto-liquidation.

Independent political parties are also under

permanent pressure. According to the information received, more than 300 branches and representations of various political parties had their registrations cancelled in 2005.

Right to peaceful assembly

Peaceful demonstrations are regularly and violently repressed in Belarus. In April 2005, a peaceful manifestation called «*Chernobylsky shliakh*» was severely repressed by special forces of *OMON*. A minor, Danila Borisevich, had his arm broken by a policeman.

In January 2005, a new version of the Law on Internal troops of the Ministry of Internal Affairs entered into force. This law allow internal troops to use weapons in any circumstances «defined by the President». This new law can gravely restrict the rights to peaceful assembly in particular in the context of the next presidential election in March 2006.

Torture

According to the information received, torture and inhuman treatment are largely used in custody and prisons of Belarus. People are also beaten and subjected to humiliations during the repressions against non-authorized peaceful demonstrations and after them, when they are kept in custody.

On July 7, Svetlana Zavadskaya, widow of a journalist Dmitry Zavadsky who disappeared in 2000, was severely beaten during a commemoration action on the 4th anniversary of the disappearance of her husband. The beating was medically certified but no legal charges were brought against Yuri Davidovich, a policeman responsible for these acts.

Freedom of the press

The situation of the freedom of the press remains dramatic in Belarus. According to the information received, in late 2005, 17 independent editions were deprived from being distributed through the State distribution services. State group “Beltelecom” remains the only provider of the Internet in the country. Independent newspaper “Narodnaya Volya” is regularly put on trial on grounds of administrative sanctions.

Death penalty

Death penalty is still not abolished in Belarus, and people were still condemned to death in 2005. However, the information on the real number of such verdicts and executions is kept secret by the authorities.

Recommendations

Considering that no progress has been made towards a better protection of human rights in Belarus, FIDH and VIASNA Human Rights Center call upon the Third Committee of the General Assembly to adopt a resolution on the situation of human rights in Belarus which would call for the renewal of the mandate of the Special Rapporteur on Belarus, and urging the authorities to, *inter alia*:

- invite the Special Rapporteur on Belarus and cooperate fully with the Special mechanisms of the United Nations,
- guarantee the independence of the judiciary and implement the recommendations of the UN Working Group on Arbitrary Detention,
- render its national legislation on the freedoms of association, expression and assembly consistent with international human rights law,
- abolish death penalty,
- guarantee freedom of expression, association and peaceful assembly in accordance with international and regional human rights instruments.
- ensure that Dranchuk and Astreyko be released, since their detentions result from arbitrary proceedings,
- put an immediate end to any act of harassment and / or intimidation against human rights defenders and all civil society members, whose views may differ from the authorities, reopen liquidated NGOs and educational establishments,
- recognize the essential role of human rights defenders in the field of democracy and the necessity to protect them in accordance with the Declaration on Human Rights Defenders, take the necessary steps to ensure that those responsible for enforced disappearance of political opponents and businessmen are brought to justice before an

independent and impartial tribunal,

- guarantee free and fair elections,
- more generally, to comply with its international and national human rights obligations.

5. BURMA - MYANMAR

FIDH is deeply concerned by the worsening the human rights and humanitarian situation in Burma-Myanmar in 2006. The Burmese government has been intensifying its aggression and violent repression of ethnic minorities and political opponents. In May 2006, the government postponed the release of Nobel Peace Prize winner Aung San Suu Kyi, leader of the democratically elected party National League for Democracy (NLD), who has spent more than 10 of the past 18 years in detention, and who is still under house arrest. She is the living illustration of the repressive and dictatorial nature of the Burmese government, led by the military junta known as the State Peace and Development Council (SPDC).

The Increasingly Dire Humanitarian Crisis and the Strengthening of a Military Dictatorship

Since December 2005, the military junta has significantly intensified its attacks on civilians, mostly on the Karen minority in East Burma. The burning down of hundreds of villages, killings, forced labour, acts of torture and systematic rape, has forced more than 16,000 men, women and children to flee their homes and take refuge in the jungle, enduring extremely precarious living conditions. Women and the girl child suffer the most from the military junta, who use rape as a weapon of war against ethnic women, and from forced displacement. The Burma military junta also forces more children to become soldiers than *any* other country in the world.

Thousands have sought refuge in neighboring Thailand, adding to the million that had already been forced to flee their own country while there are between 500,000 to one million internally displaced as a result of the military's systematic assaults on them and their families.

This has resulted in an increasingly dire humanitarian crisis, worsened by the fact that the Burmese regime has imposed stricter conditions, or denied access entirely, to humanitarian organizations such as Medecins Sans Frontières and other international Non-Governmental Organizations, so that they are unable to reach the displaced facing the greatest needs.

A detailed study released in September 2006, "Chronic Emergency: Health and Human Rights

in Eastern Burma"⁸, found that child and maternity mortality rates are comparable to some of the worst war zones in Africa such as Somalia, Angola or Rwanda. Of every 1,000 children born in eastern Burma, where junta soldiers are repressing ethnic minorities, 221 will be dead before their fifth birthday, a rate *higher* than in the Democratic Republic of Congo, one of Africa's poorest nations.

In addition, the SPDC has increased political repression, especially towards the NLD party members, threatening them with being further outlawed and forbidding them from assembling or giving press conferences. The Burmese junta has detained 1156 political prisoners over the past eighteen years, including 392 representatives of the NLD party. 10 political prisoners have died in custody within the last year. While the regime was supposed to release Aung San Suu Kyi last May, it decided, again arbitrarily, to postpone her release for another year in spite of the hopes triggered by the visit of U.N. Under-Secretary for Political Affairs Mr. Ibrahim Gambari.

On September 27, 2006, the 3 most prominent student leaders of Burma, Min Ko Naing, Ko Ko Gyi and Htay Kywe were arrested by the Burmese military regime. All had already served over 15 years in prisons. They were released in 2004 and 2005 and since then, they have been working tirelessly to bring about democratic changes in Burma by peaceful means.

The Burmese regime's assaults on ethnic minorities and its intensification of political repression in Rangoon and elsewhere represent a growing risk of an outburst of civil war, which would undeniably cause greater instability in the region, more human rights violations and further human exodus to neighboring countries.

The Situation in Burma is a Direct Threat to Peace and Security in the Region

The fact that thousands of people are currently fleeing the country, mostly into Thailand is a cause of instability in the region. Indeed, Thai border controls have been struggling to cope with a growing exodus of refugees. There are currently

⁸ Report of the Back Pack Health Worker Team, available at <http://www.burmacampaign.org.uk/reports/ChronicEmergency.pdf>.

more than 140,000 refugees living at the border in fenced camps, where Burmese civilians are denied permission to work and can only survive with humanitarian aid. In view of the widespread and growing nature of the junta's attacks, the whole region is threatened by insecurity and an increasing humanitarian crisis.

Recent academic studies have demonstrated that the humanitarian crisis caused by the junta is *not* restricted to within Burma, but has ever-increasing spillover effects reaching the entire region. One consequence of this is that deadly and new diseases are rapidly spreading amongst neighboring populations of at least 6 countries. In a report issued in March 2006 by the John Hopkins Bloomberg School of Public Health, researchers concluded that "for both malaria and TB, multi-drug resistance generated by Burma's weak programs for drug control are increasing drug resistance in Thailand and India and threatening to undermine the only effective regimens for drug resistant *Plasmodium falciparum* in South and Southeast Asia. (...) Resurgent drug resistant malaria and TB have the potential to threaten enormous populations. HIV spread related to Burmese heroin exports has already done so and affects India, China, Thailand, Vietnam, and, most recently Bangladesh."⁹

Burma is also the world's second largest producers of heroin and opium and a world leader producer of amphetamine-type stimulants.

Conclusions and Recommendations

These blatant violations of human rights contravene the fundamental principles of international treaties and customary international law which the United Nations endeavors to defend and implement, yet nothing today leads us to believe that these crimes will ever stop, unless international action is taken.

FIDH calls on all the Third Committee of the General Assembly to:

- condemn the systematic and widespread human rights violations perpetrated by the military junta, including the destructions of villages, the killings, the forced labor, the use of rape as a weapon of war and the use of child soldiers, and urge the government of Burma to put an immediate end to such violations;
- urge the government of Burma to put an end to its systematic attacks and repression against ethnic minorities;
- call on the government of Burma to immediately and fully engage in long-term peaceful national reconciliation and democratization;
- urge the government of Burma to immediately and unconditionally free Aung San Suu Kyi and all those arbitrarily detained, including the political prisoners.

⁹ "Responding to AIDS, TB, Malaria and Emerging Infectious Diseases in Burma: Dilemmas of Policy and Practice March 2006", a report by the Center for Public Health and Human Rights, Department of Epidemiology, John Hopkins Bloomberg School of Public Health, March 2006, available at http://www.jhsph.edu/humanrights/burma_report.pdf, (Page 8).

THEMATIC PRIORITIES

1. INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

After the adoption on September 23, 2005 by the United Nations Working Group of a Draft International Convention for the protection of all persons from enforced disappearance Amnesty International, Human Rights Watch, the International Commission of Jurists, and the International Federation of Human Rights called on all U.N. Member States to ensure that the U.N. Human Rights Council adopt by consensus the convention, which it did.

On the occasion of the 61st session of the UN General Assembly, we call on Members States to adopt by consensus the draft adopted by the Human Rights Council.

The treaty has been drafted by a working group established pursuant to resolution 2001/46 of the Commission on Human Rights. At its fifth session in September 2005 the working group adopted the draft text of the *International Convention for the Protection of All Persons from Enforced Disappearance* and agreed to forward it to the Commission for consideration.

FIDH expresses its gratitude to the delegations that contributed to the adoption of this draft and congratulate the chairman of the Working Group for his tenacity, commitment and tireless work on behalf of the victims of forced disappearances.

FIDH calls on all states at the Third Committee of the General Assembly not to pursue short term political interests by proposing options and amendments that would jeopardize the meaning of the text.

This Convention represents an extremely important development in the fight against enforced disappearances and for the protection of victims and their families. On the whole, the adopted text meets the expectations of the NGOs. We would like to express our satisfaction with regard to the following points:

First, the Convention is an autonomous treaty

endowed with its own treaty-monitoring body. This choice represents an appropriate recognition of not only the extreme seriousness of the multiple violations of human rights and international crime that enforced disappearance constitutes, but also of the suffering of victims of forced disappearances and of their families' tireless fight to locate them. This choice is also a guarantee of the treaty's effectiveness in the future, including in the event of a reform of the UN treaty monitoring bodies.

The Convention constitutes a large step forward in a long historical process. It effectively marks a significant development in applicable international law, all the while based on firmly established standards of customary international law. The Convention also responds to a substantial gap in the law - the absence of a treaty to address the multiple violations of human rights and international crime that enforced disappearance represents. The organizations welcome the recognition by the Convention of the right not to be subjected to enforced disappearance and the requirement put on States to prohibit and criminalise this practice in their national legislation. The Convention includes provisions related to the criminal responsibility of subordinates and superiors, to national and international preventive measures, extradition and international cooperation.

Moreover, the Convention recognizes that, in certain circumstances, enforced disappearances can be considered a crime against humanity and therefore be subject to an international criminal prosecution, even extending as far as a response of the whole international community through the organs of the United Nations.

The Convention establishes a very significant body of legal obligations in relation to prevention, such as the prohibition of secret detention; the deprivation of liberty solely in officially recognized and supervised places of detention that are equipped with a detailed register of the detainees; and non-derogable rights to habeas corpus and to obtain information on detainees.

The Convention recognizes the right to truth and to reparation for victims and their family, as well as the right to form organizations and associations to fight against enforced disappearances. It also deals with the question of the wrongful removal of children whose parents are victims of the crime of

enforced disappearance, the falsification of the children's identity and their adoption.

The Convention is innovatory in its international mechanism and procedures for monitoring and protection. It provides for a Committee on enforced disappearances that, in addition to functions of monitoring and consideration of individual and inter-state complaints, has a humanitarian urgent procedure, the power to undertake field inquiries and the ability to bring to the attention of the UN General Assembly situations of widespread and systematic practice of enforced disappearance.

Our organizations believe that the power of the Committee to recommend urgent action is of particular importance to prevention and protection.

The Convention will be an invaluable tool in the fight against impunity for perpetrators of enforced disappearances. For NGOs it represents an invaluable advocacy instrument.

FIDH would like to pay tribute to the families of the disappeared, who have inspired our organizations with their courage over many years and have given us hope. As the families maintain this hope, we cannot fail to have it too.

FIDH strongly urges all member States to ratify the document after its adoption by the General Assembly and to quickly adapt their national legislation to the new document.

2. HUMAN RIGHTS DEFENDERS

En 2006, les défenseurs des droits de l'Homme ont, dans un grand nombre d'Etats, continué de payer au prix fort leur détermination et leur engagement en faveur des droits de l'Homme et des libertés fondamentales.

Depuis le début de l'année 2006, la FIDH a ainsi recensé 17 cas d'assassinats ou de tentatives d'assassinats et près de 110 cas de détentions arbitraires, dans le cadre de son programme conjoint avec l'Organisation mondiale contre la torture (OMCT), l'Observatoire pour la protection des défenseurs des droits de l'Homme.

Qu'ils soient avocats, dirigeants syndicaux, dirigeants de communautés indigènes, défenseurs de l'environnement, ou simplement engagés dans la lutte contre l'impunité ou en faveur de la paix dans leur pays, ces hommes et ces femmes sont le plus souvent considérés comme des « ennemis de l'Etat », à faire taire. Quels que soient les auteurs des violations à leur encontre (étatiques, privés ou paramilitaires), ceux-ci bénéficient le plus souvent de la plus grande impunité.

La répression visant les défenseurs et/ou leur famille est multiforme : ils sont l'objet d'assassinats ou de tentatives d'assassinats (**Colombie, Guatemala, Mexique, Irak, Philippines**), de menaces de mort (**Colombie, Guatemala, Ouzbékistan, RDC**), de torture et de mauvais traitements (**Colombie, Ouzbékistan, Tunisie, Zimbabwe**), d'arrestations et de détentions arbitraires (**Belarus, Djibouti, Ethiopie, Iran, Chine, Cuba, Ouzbékistan, Israël, Syrie, Turkménistan**), de poursuites judiciaires (**Algérie, Russie, Ouzbékistan, Soudan**), ou encore de campagnes de diffamation (**Fédération de Russie, Tunisie, Pérou**).

Cette répression passe aussi par la multiplication de lois restrictives visant, de la part des Etats, à neutraliser la société civile et à sanctionner les membres d'organisations non gouvernementales (ONG) pour leur seul engagement en faveur des droits de l'Homme et de la démocratie (**Fédération de Russie, Soudan**). Au **Belarus** par exemple, quatre défenseurs qui avaient annoncé la création, en février 2006, d'une organisation visant à veiller au bon déroulement des élections présidentielles du 19 mars 2006, ont été condamnés à des peines de prison en vertu des dispositions du nouveau Code pénal amendé en

décembre 2005, qui avait été vivement critiqué par l'ensemble de la communauté internationale pour ses dispositions très restrictives en la matière.

La FIDH est tout particulièrement préoccupée par le sort des défenseurs des droits économiques, sociaux et culturels.

Les dirigeants paysans et indigènes sont ainsi victimes d'une rare violence comme aux **Philippines**, ou plusieurs d'entre eux ont été assassinés en 2006. La situation reste en outre particulièrement préoccupante pour les défenseurs des sans terre au **Brésil** ou les dirigeants des communautés autochtones. Ainsi, au **Chili**, les représentants de la communauté Mapuche sont victimes d'une véritable politique de criminalisation de la mobilisation sociale, et sont ainsi régulièrement condamnés à de longues peines de prison, généralement prononcées sur la base de la Loi antiterroriste ou de la Loi de Sécurité de l'Etat. Au **Mexique**, le 11 mars 2006, M. Francisco Concepción Gabino Quiñónez, dirigeant indigène opposé aux activités de l'entreprise minière appartenant à la multinationale italienne Ternium du Groupe Techint, à Peña Colorada dans l'Etat de Jalisco, a été retrouvé mort, portant des traces de torture.

Les dirigeants syndicaux continuent également de se heurter à une forte répression en Colombie, au Zimbabwe, en Corée du Sud, ou encore à **Djibouti**. Dans ce dernier pays, on a assisté en 2005-2006 à une recrudescence d'actes visant à criminaliser les défenseurs des droits de l'Homme (arrestations, licenciements, actes de harcèlement policier et judiciaire, menaces, etc.), tandis que le nouveau Code du travail, entré en vigueur en janvier 2006, permet aux autorités de contrôler ou de refuser la création d'un syndicat, ou de dissoudre un syndicat sur simple décision administrative, à la demande de certains ministères.

Enfin, ceux qui défendent les minorités sexuelles restent l'objet d'attaques comme au **Salvador** ou au **Nigéria**. Dans ce dernier pays, un texte, approuvé par le Conseil exécutif fédéral en juin 2006, prohibe notamment "l'enregistrement par les organes gouvernementaux des clubs, sociétés et organisations gays, quel que soit le nom qui leur est donné" et prévoit cinq ans d'emprisonnement pour toute personne impliquée dans l'enregistrement de telles organisations, ou

dans “l’organisation de processions ou assemblées, publicité et démonstration publique de relations amoureuses homosexuelles, directement ou indirectement, en public ou en privé”.

Par ailleurs, l’intégrité physique et psychologique des défenseurs reste particulièrement mise à mal dans les pays ou zones de conflits ou de crise, tels que l’**Afghanistan**, la **Colombie**, l’**Irak**, la **RDC**, ou encore le **Sri Lanka**. En **Syrie**, plusieurs défenseurs des droits de l’Homme, notamment MM. Michel Kilo et Anouar Bunni, restent détenus pour avoir signé une pétition appelant à une normalisation des relations entre le Liban et la Syrie. Cette pétition, d’une importance toute particulière, était une initiative conjointe d’intellectuels et de défenseurs des droits de l’Homme syriens et libanais, la première de la sorte.

De même, ceux qui luttent contre l’impunité sont exposés à de fortes représailles (**Centrafrique**, **Iran**, **Ouzbékistan**). Par exemple, au **Guatemala**, les membres du Mouvement national des droits de l’Homme du Guatemala (MNDH), ont été l’objet de menaces de mort en référence aux activités d’enquête et d’accompagnement de cas de violations des droits de l’Homme devant les tribunaux.

Dans certains cas enfin, la répression systématique de la part des autorités rend impossible toute activité organisée de défense des droits de l’Homme, comme au **Turkménistan**, en **Corée du Nord**, au **Vietnam**, au **Laos**, ou encore en **Guinée Equatoriale**.

La FIDH demande la Troisième Commission de l’Assemblée Générale de :

- condamner toutes les atteintes aux défenseurs des droits de l’homme, perpétrées ou tolérées par des autorités officielles,
- rappeler que la protection des défenseurs des droits de l’homme est la condition *sine qua none* de la pleine réalisation des droits et libertés fondamentales reconnus dans les traités internationaux que défend le système des Nations unies.
- soutenir le renouvellement du mandat de représentant spécial du Secrétaire Général (RSSG) sur les défenseurs des droits de l’Homme ;
- demander aux Etats de coopérer totalement

avec la RSSG à la suite de ses lettres d’allégation, et en l’invitant selon ses propres termes de référence ;

- demander aux Etats à mettre en oeuvre les recommandations émises par la RSSG à leur égard.

3. THE PROTECTION OF HUMAN RIGHTS WHILE COUNTERING TERRORISM

September 11, 2001 terrorist attacks on the American soil marked a decisive turning point in the history of terrorist attacks as well as counter-terrorism measures and practices. The international community through the United Nations Security Council reacted to these attacks by adopting Resolution 1373 (2001) creating the Counter-Terrorism Committee (CTC) and imposing obligations on member States to raise national capacity to combat terrorism in all its forms. Following that resolution, States have started enacting specific counter-terrorism measures in their domestic law in a way incomparable to what had previously been done.

Yet, in developing their policies, States have been adopting *laws and measures that violate human rights*. Indeed, it cannot be denied today that anti-terrorism practices and policies have, in many instances, resulted in arbitrary detentions, torture, violations to the right to life, to the right to a fair trial by an impartial and independent tribunal, violations to freedom of expression, private life and property, or renditions of asylum seekers suspected to take part in terrorist activities to countries where they may face torture or cruel, inhumane or degrading treatment.

FIDH has always strongly condemned terrorist attacks and understands that it is both the right and the duty of States to find ways to combat terrorism. However, FIDH denounces the clear emerging trend followed by States and which constitutes of increasingly diverting the objectives of the fight against terrorism and sacrificing basic human rights.

The United States, the most pro-active State in that area, and today mostly infamous for its Guantanamo Camp justified by the on-going “War on Terror,” have been repeatedly condemned by international treaty bodies for going too far in disregarding their international obligations.

Since gaining control of detainees, the U.S. military has held them virtually *incommunicado* at Guantánamo Bay, Cuba, under conditions that violate their constitutional and international rights. Indeed, damning reports have surfaced revealing the military’s use of abusive and tortuous practices – including isolation for up to

30 days, beatings, round-the-clock interrogations, extreme and prolonged stress positions, sleep deprivation up to 50 days, sensory assaults, removal of clothing, hooding, and the use of dogs – which were actually interrogation techniques approved for use at Guantánamo by the most senior Department of Defense lawyer. It has also been proven that these techniques have been applied in other U.S. detention facilities in Iraq and Afghanistan.

On September 29, 2006, the Military Commissions Act (MCA) was adopted by US Congress. It retroactively (since 9/11) prohibits any “alien detained by the United States,” anywhere in the world, who is “detained as an enemy combatant or is awaiting such determination” the right to file a *habeas corpus* petition challenging the legality of his or her detention, which includes all of the Guantánamo detainees which habeas petitions previously filed were currently pending in the federal trial courts. This means that detainees also won’t be able to get the judiciary to look at the condition of the detentions and their treatment in detention.

In this year 2006, both the *Committee Against Torture* in May and the *Committee for Human Rights* in July recommended that the U.S. immediately release or try the Guantanamo detainees, end the practice of secret detentions, renditions, and torture, put an end to illegal “harsh” interrogation techniques and inhumane treatment of suspected terrorists, and provide reparations to people upon whom they were applied.¹⁰

The U.S. are not the only ones who have fallen into the trap of answering to human rights violations by other human rights violations. Many countries have been involved in such practices including in Europe, where some of them collaborated, especially in the case of CIA’s secret Flights. Worrying policies and instruments are being ratified in many other regions of the world, and they clearly lack full respect of States’ international human rights treaty obligations.¹¹

¹⁰ [See also the Amicus Curiae filed to the US Supreme Court, by the FIDH, CCR and Human Rights Watch in the case Hamdan vs. Rumsfeld](#)

¹¹ Also, see FIDH November 2005 Report: [“Violations of Human Rights in Sub-Saharan Africa in the Name of the Fight against Terrorism.”](#) in French.

FIDH strongly believes that anti-terrorism measures may, and should be, compatible with human rights and fundamental freedoms. In fact, all international human rights treaties do provide for derogations and limitations when States are facing emergency serious threats. Last October, FIDH issued a report entitled "[Anti-Terrorism v. Human Rights: the Key to Compatibility](#)" in which was demonstrated how this is true.

Five years after the 9/11 attacks, FIDH calls upon the Third Committee of the General Assembly to:

- Condemn all restrictive measures adopted to counter terrorism which result in disproportional human rights violations,
- to work for and demand the development and strengthening of effective international, regional, and national systems that would ensure that

counter-terrorism measures are systematically compatible with human rights,

- to urge states to fully cooperate with UN special procedures, and invite their mandate holders to conduct *in situ* visits when they require it and according to their terms of reference,
- to urge states to implement UN human rights mechanisms' recommendations that call for respect for human rights in the fight against terrorism.

4. VIOLENCE AGAINST WOMEN

Enjoying a life free from violence is one of women's most fundamental human rights, without which the enjoyment of other rights is impaired. Unfortunately, still today, gender-based violence is an experience that is shared by women and girls from all countries and of all origins in this world. The persistence of these crimes and the related patent impunity are unacceptable.

While international human rights law condemns all forms of violence against women, and in some states, national legislation criminalizing these acts of violence may exist, the gaps between the principles proclaimed and their actual implementation are so wide that a majority of women remain without protection or remedy, and authors of crimes enjoy impunity. New strategies of actions need to be debated, determined and implemented, in part to reinforce international law on this issue. FIDH urges the Third Committee to enact a resolution to that effect, and which would call upon all states to follow the recommendations of the newly-released UN in-depth study on violence against women.

The unacceptable extent of violence against women

Despite worldwide notable improvements in education and in raising awareness about women's rights, abuses against women and the girl child are, whether in time of peace or of war, persistent, systematic, and too often tolerated by the authorities. These include physical, psychological and sexual violence inflicted either:

- ***by the family***, such as domestic violence, marital rape, incest, excision and other forms of genital mutilation, crimes of honor, forced marriage, dowry-related violence, or
- ***by the community***, such as murders, trafficking, rape, sexual harassment, forced prostitution, forced labor, but also
- ***by the state***, as exercised by police, prison guards, soldiers, and other officials, which includes acts of torture and the use of systematic rape as a weapon of war.

Some women and girls are more vulnerable to these acts of violence, such as women from an ethnic minority origin, indigenous women, refugee and migrant women, women in detention, or women experiencing situations of armed conflicts.

Lack of legislations, discrimination and cultures of tolerance undermine possible improvements

UN Fourth World Conference on Women in Beijing in 1995, and the follow-up Conferences "Beijing + 5" and "Beijing + 10" have shown UN member states' willingness to increase their commitment in defending women's rights and have recognized that violence against women is one of the critical areas of concern.

However, actual improvements are scarce, and this is often due to the absence of national legislation condemning such violence, or the lack of willingness to implement it as well as discriminative statutes. These legal voids and inconsistency with international law, as well as the behavior of state officials such as police and judges, are unfortunately very common on the issues of domestic violence, marital rape, excision, sexual harassment, trafficking and other violations, which allow for these practices to persist. This creates a climate where violence against women appears as normal as it is tolerated by national authorities, neglecting their obligations to prosecute, punish and provide the victims with remedy and assistance.

Indeed, patent cultures of tolerance, along with a culture of silence on behalf of discouraged women, are still inseparable from the issue of violence against women, which prevent improvements from happening. This cultural aspect is a *key* factor. It should not be underestimated and creative strategies need to determine how states can effectively address this issue alone.

Education, in that regard, is fundamental – for individuals to know how and why to respect women, for all women and girls to know their rights and be comfortable denouncing violations, but also for the police and judiciary to act in accordance with national and international law.

Conclusions and Recommendations

Partly due to the lack of a uniformed internationally-accepted definition of what constitutes violence against women, few studies have been made on that subject and reliable data on the incidence of gender-based violence have been insufficient.

Attempting to address that lack, the UN Division on the Advancement of Women (DAW) is

releasing a long awaited in-depth study on all forms of violence against women. This report was mandated by General Assembly resolution 58/185, and it will be presented to the Third Committee on October 9, 2006.

FIDH welcomes the study's action-oriented recommendations for six key areas for consideration by States. FIDH strongly urges the Third Committee to call, in a resolution, on all states:

- to implement the recommendations contained in the DAW in-depth study,
- to respect their obligations under international law to prevent, prosecute, punish and provide remedy and assistance to victims of violence against women,
- to adopt legislation on all the forms of violence against women, and train officials, in particular the police and the judiciary, to obtain an effective implementation of existing and new legal frameworks,
- create and improve nation-wide public education, information and awareness programs, especially in rural and traditional areas, on all forms of violence, including domestic and sexual violence,
- create a specific fund for victims of such violence, especially sexual violence, dedicated to support direct victims and the organizations which provide them with assistance.

5. DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

As a non-governmental organization working in the field of human rights, FIDH has seen time and again that the promise of universal respect for and protection of human rights remains unfulfilled for the world's Indigenous peoples. We witness in every region of the world, Indigenous peoples suffering gross violations of their fundamental human rights as the consequence of systemic discrimination, historic injustices and ongoing marginalization.

At its first session in June 2006, the Human Rights Council adopted one of the most urgently needed and long overdue standards for the recognition and protection of human rights, the draft *United Nations Declaration on the Rights of Indigenous Peoples*.

We join Indigenous representatives in the conviction that the United Nations Declaration on the Rights of Indigenous Peoples is ready for adoption at the 61st session of the General Assembly. The proposed text that first emerged from the 11th session of the U.N. Working Group on the draft Declaration is the culmination of lengthy and exhaustive deliberations among states and Indigenous peoples. Given the broad support for the Working Group proposal among states, as well as Indigenous peoples, and the adoption by the Human Rights Council, nothing should prevent the General Assembly from now adopting the Declaration.

FIDH is calling on states not to pursue short term political interests by posing options which would undermine the confidence of Indigenous peoples, and the agreement reached with them, in the course of the more than two decades worth of the negotiations on the draft Declaration.

FIDH believes that by adopting the Declaration, the General Assembly of the United Nations will strengthen the whole universal human rights system by setting crucial standards for the survival, dignity and well-being for the world's Indigenous peoples.