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Item 14: Specific Groups and Individuals

Joint Oral Statement by Amnesty International and Friends World Committee for Consultation (Quakers)

Delivered by Rachel Brett, Quaker UN Office, Geneva, on Tuesday 12 April 2005

Refugees and Asylum-Seekers

Amnesty International and Friends World Committee for Consultation (Quakers) welcome the report of the UN High Commissioner for Human Rights on 'Human Rights and Mass Exoduses' and its Thematic Annex (E/CN.4/2005/80 and Add. 1) which identify the way in which human rights standards have been applied to refugees, asylum-seekers and other displaced persons, and the critical issues requiring attention. We urge the UN Commission on Human Rights to call unequivocally on States to protect the human rights of refugees, asylum seekers and displaced persons wherever they may be and whatever their legal status. In particular, we are concerned that millions of refugees who have moved in mass flows have been living in protracted refugee situations for years, denied fundamental human rights such as the right to adequate food, to adequate housing, and to protection from sexual and gender based violence. We urge States to demonstrate a real commitment to ending the human rights violations which cause mass exoduses, and to removing the protection gaps into which refugees all over the world fall; unable to exercise their fundamental human rights and living lives that are neither secure nor dignified.

Addressing root causes of mass exoduses:

Impunity is a key factor in creating and perpetuating the mass exodus of people; it is a key barrier to sustainable peace and reconciliation, and to the voluntary return of refugees and displaced persons to their homes or countries of origin in conditions of safety and dignity. We call on States to combat impunity for human rights violations, particularly sexual and other forms of gender-based violence that are frequently left unpunished, through upholding the rule of law and respect for the human rights of uprooted people, including their right to reparation for human rights violations. In this context, while deeply regretting the exemptions inserted in the resolution, our organisations welcome the historic decision of the Security Council to refer the crimes committed in Darfur to the Prosecutor of the International Criminal Court

(ICC) as a huge step towards bringing impartial justice to victims of war crimes and crimes against humanity.

Statelessness is another key factor that can eventually lead to the mass exodus of people. We remain concerned about the high levels of statelessness, often linked to lack of or barriers to birth registration.

Access to protection:

Around the world, in situations of mass exodus as well as the movement of individuals, refugees are denied access to protection, through being prevented from entering countries to seek asylum in accordance with international refugee law and standards. We call on States to ensure that human rights protection is placed at the heart of the international political agenda and that human rights guarantees are fully incorporated in border management and control measures. In particular, States should end the use of fast-tracked asylum and other procedures which deny asylum seekers the right to a fair and satisfactory determination of their asylum claim in accordance with international refugee law and standards, including the principle of *non-refoulement*. In addition, States should take measures to safeguard the right to liberty and freedom from arbitrary detention in full conformity with international legal standards and principles.

The quality of protection:

In the immediate aftermath of mass exoduses, refugees and other displaced persons may be housed in camp situations which, all too often, become protracted. Many are denied access to a durable solution or have solutions imposed on them, and are unable to enjoy their fundamental human rights. Certain groups, notably women, girls, the elderly and the sick, often face multiple discrimination in decision-making processes as well as in the provision of basic services. Furthermore, sexual and other forms of gender-based violence are often rife. It is of particular importance that effective protection is provided to all refugees and displaced persons, including women and girls, in all situations. They should all be recognised as persons with rights to physical security and integrity as well as other civil and political, economic, social and cultural rights, including the rights to work, to education, access to courts and freedom from discrimination.

Recommendations:

Amnesty International and FWCC (Quakers) urge the Commission to call on:

1. States, Special Procedures and the OHCHR to follow-up on the Mass Exoduses Report and thematic annex (on measures taken to implement resolution 2003/52 and obstacles to its implementation) so that protection gaps are addressed and measures taken to ensure that all refugees and other displaced persons are guaranteed the possibility to exercise their fundamental human rights, without discrimination.
2. States to pay particular attention to the human rights of refugees and displaced persons when reviewing the Millennium Development Goals, inter alia by recognizing the need to provide protection and offer durable solutions to such persons and by recognizing their own obligations to respect and protect the fundamental rights and freedoms of refugees and displaced persons, including their rights to non-discrimination, physical security and integrity as well as their economic, social and cultural rights.
3. States to investigate and, where there is sufficient admissible evidence, to prosecute, in fair trials without the possibility of the death penalty, their own nationals involved in peacekeeping operations and other persons found in their territories suspected of crimes under international law, including crimes of sexual violence, and conduct proceedings for reparations, as well as to cooperate fully with the International Criminal Court and other international or mixed war crimes tribunals and to surrender accused persons to them upon request.
4. States which have not yet done so to ratify the Statelessness Conventions and ensure that all children, irrespective of status, are registered at birth.