



Briefing note on priority human rights issues for the EU-LAC summit, in Spring 2008

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Preparations for the 2008 European Union - Latin American and Caribbean countries (EU-LAC) summit are now well underway, and Amnesty International understands that the main themes of the event are going to be climate change and tackling poverty. Understanding poverty as a condition that is in part driven and perpetuated by the violation of economic, social and cultural, as well as civil and political rights explains that human rights must be at the core of the agenda. Because human rights are universal, indivisible, and interdependent, poverty eradication cannot be achieved without integrating the framework of international human rights standards into development work. Therefore, in the fight against poverty, the interdependence of human rights should be the overarching frame for the partnership between the EU and third countries. Civil and political rights are as essential to this framework as economic, social and cultural rights: for example, denial of access to healthcare dwells on other violations of human rights such as denial of freedom of expression or discrimination. Equally, threatening freedom of association and expression endangers the rights to access to education or health.

As the biggest development donor in the world, the European Union must realise its commitment to putting human rights at the forefront of EU development co-operation. These commitments flow from the legal obligations of its Member States as well as from EU treaty provisions which recognise human rights as common values underpinning EU partnership and dialogue with third countries.

In addition, an EU-LAC business summit is planned to take place alongside the political dialogue. This represents a key opportunity for a discussion of the interlinkages between business and human rights.

In light of this, this briefing note highlights a number of human rights concerns in the region that come under these themes. We would urge the Slovenian Presidency to take the opportunity to discuss these issues, and the recommendations within the briefing, with the governments concerned, both in the preparations for the summit, and also at the event itself. In particular Amnesty International calls on the Slovenian Presidency to use the opportunity of the summit to press for progress in the following areas:

- **protecting Human Rights Defenders and Trade Unionists.** The Presidency should fully implement the EU Guidelines on Human Rights Defenders and request assurances from partner governments that steps will be taken to put an end to systematic harassment against human rights defenders;
- **providing women with equal and appropriate access to healthcare.** In the wake of the international year for sanitation, the Presidency should urge the Peruvian Government to ensure that every person has the right to free access to health care and timely information;
- **enhancing public security for all communities.** The Presidency should urge Brazil to take concrete steps towards ending systematic human rights abuses and endemic violence in order to build social cohesion. The Presidency should also take the opportunity to request Mexico's commitment to investigate and prevent further violence and threats associated with preparatory work on La Parota dam, and to ensure that all of those whose human rights will be affected by La Parota dam are afforded the opportunity to genuinely participate in decisions regarding it;
- **protecting migrant and minority workers.** The Presidency should urge the Dominican Republic to implement human-rights friendly migration policies and recognise the right of nationality of all Dominican-born children without discrimination; and
- **business and human rights responsibilities.** The Presidency should highlight the role of states and companies and their respective human rights responsibilities by urging LAC States to ensure they comply with their duty to protect. In addition, EU Member States should monitor and regulate the human rights impact of European companies and underline companies' responsibilities in respecting human rights.

1) Human Rights Defenders

In Latin America and the Caribbean, human rights, social, community and land activists continue to face widespread violence, threats and intimidation such as surveillance, raids, investigation on spurious charges, and detention - with or without an authorised arrest warrant.

Colombia holds one of the highest levels of violence against trade unionists, within a climate of impunity. Between January 1991 and December 2006 2,245 trade unionists were killed, 3,400 were threatened mainly by army-backed paramilitary groups and the security forces, but also by guerrilla groups; and 138 were forcibly 'disappeared' across Colombia. The Presidency should insist on the prompt and thorough implementation of the recommendations of the UN High Commissioner for Human Rights through a national human rights action plan. This implies decisive action to end impunity in cases of human rights abuse, decisive action to truly dismantle army-backed paramilitary groups and break their links with the security forces, and decisive action to protect vulnerable sectors of civilian society, including human rights defenders, indigenous, Afro-descendent and peasant farmer communities in conflict zones.

The Presidency should also call on the Government to ensure that the International Labour Organisation (ILO) permanent presence in Colombia is able to promote and monitor effectively freedom of association rights in line with the June 2006 Tripartite Agreement, and to abide fully by ILO recommendations. It should call on the Colombian government to ensure that the special investigation units of the Office of the Attorney General, investigating cases of right to life violations against trade unionists, are adequately resourced in order to help end impunity in cases of human rights abuses against trade unionists. Amnesty International also calls on the EU to freeze any financial or political support to projects and policies related to the demobilisation process, which might benefit human rights abusers and exacerbate the problem of impunity. This should include those which could facilitate the legalisation of lands and other assets stolen through war crimes and crimes against humanity.

In **Brazil**, human rights defenders have suffered a backlash for criticising police brutality. In the wake of violent attacks by the Primeiro Comando da Capital (PCC) in Sao Paulo in 2006, as well as large-scale policing operations in Rio de Janeiro during 2007, defenders have been effectively criminalised – accused of defending, and being in the pay of, criminal gangs. Since the beginning of her mandate in 2000, the UN Special Representative of the Secretary General on human rights defenders has sent 12 communications to the Government of Brazil with regard to land rights, natural resources and environment activists. The national human rights defenders programme has established a federal co-ordination body, overseeing policy and guidelines on the promotion, protection and defence of human rights defenders. However, problems remain with the programme, including a constant inability at both federal and state level to guarantee effective police protection and the lack of a well resourced national body to oversee the effective implementation of the plan. The Presidency should urge the Government of Brazil to fill the gap between the declaration of policy and its implementation and ensure the effectiveness of the mechanisms in place.

In **Mexico**, despite the Government's commitment to international human rights law and to address grave public security problems, journalists investigating organised crime networks are at particular risk of serious attack. Perpetrators are virtually never identified or held to account.

RECOMMENDATIONS

In accordance with its commitment under the 2004 European Union Guidelines on Human Rights Defenders¹, the Presidency should use the opportunity of the summit to call on its Latin American and Caribbean partners to promote the work of, and protect, human rights defenders. In particular, the Presidency should urge its partners to:

- implement political, legal and practical measures ensure the safety and physical and psychological integrity of human rights defenders where they are at immediate or serious risk;
- ensure equal access to justice for human rights defenders in accordance with international fair trial standards; and

¹ 'Ensuring protection — European Union guidelines on human rights defenders'

- tackle impunity for attacks and threats against human rights defenders in accordance with article 9 of the 1998 UN Declaration on Human Rights Defenders.

2) Women's access to healthcare

Maternal and child mortality rates in **Peru** remain among the highest in the region. Despite steady growth in the economy in recent years, Peru has one of the lowest levels of investment in health in Latin America and the amount spent on health per person has declined. The Seguro Integral de Salud (SIS), a health scheme introduced in 2002, was supposed to provide free maternal and infant health services for those who cannot afford to pay. However many women, especially in poor rural areas, are still not able to access adequate health care because of discrimination in the provision of medical care combined with the lack of cultural understanding.

Amnesty International has called on the government of Peru to take urgent steps to address obstacles, deeply rooted in discrimination, which prevent poor and marginalized communities from accessing health services.

RECOMMENDATIONS

- The Presidency should send a strong signal to the Peruvian authorities to ensure there is sufficient political will, adequate funding and appropriate services to reduce the rate of maternal and infant mortality in order to pave the way for Peru to meet the objectives 4 and 5 of the Millennium Development Goals;
- In accordance with article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Government of Peru should also seek all appropriate measures to ensure to women appropriate services in connection with pregnancy;
- The authorities should guarantee health centres will issue certificates without charges for all newborns whether or not the baby was born in a health facility or at home;
- The United Nations have declared 2008 the International Year for Sanitation. In order to improve medical care, the Government should provide health professionals with adequate work conditions and community-sensitised training.

3) Enhancing public security for all communities

Long-term state neglect has fuelled extreme levels of criminal violence that pervade most of **Brazil's** major urban centres. The rise in organised crime and death squad activity on the periphery of Sao Paulo and the growth of the militias in Rio de Janeiro are symptomatic of this lawlessness. The police response, in the form of violent, militarised operations against the most vulnerable communities, is often described as the 'criminalisation as poverty'. In Rio de Janeiro, police killed 961 in the first eight months of 2007. This increase in violence, along with widespread corruption within the police and the government, reinforces patterns of social exclusion and sustained human rights abuses.

Amnesty International has called on all levels of government to work with local communities to implement inclusive, long-term public security policies to tackle the root causes of violence and social exclusion. The Federal Government's new plan, Programa Nacional de Segurança Pública com Cidadania (Pronasoci), launched in August 2007, is aimed at crime prevention and fostering social inclusion, including investment in social projects, rehabilitation of prisoners and improved salaries for police officers. Amnesty will be closely monitoring the new plan's effectiveness.

In **Mexico**, as part of the multi-billion dollar investment Panama Puebla-Plan, a 180-metre high dam in La Parota in Guerrero State has been proposed. Guerrero State has some of the highest levels of marginalisation and some of the lowest indicators of human development in Mexico. The preparation

and the implementation of La Parota hydroelectric dam entails significant consequences for the human rights and the livelihoods of up to 100,000 people from poor farmer communities, including several indigenous settlements. Amnesty International has documented a number of violations of rights in the development of this project, including the rights of affected communities to information, to participation in decisions on development projects which affect the exercise of their human rights, to consultation and to effective legal remedy.

RECOMMENDATIONS

The Presidency should urge Brazil to seize the opportunity of its membership of the Human Rights Council until June 2008 to take concrete steps towards improving the protection for marginalized communities facing systematic human rights abuses and endemic violence. EU and LAC States should honour their 2004 commitment at Guadalajara to make social cohesion a shared goal. In keeping with this commitment the Presidency should:

- call on the Government of Brazil to promote the introduction of human rights-based policing and enhancing police accountability in order to prevent extra judicial killings;
- stress the importance of rule of law and press for urgent reforms of the criminal justice system to end entrenched corruption and impunity, and of the prison system to ensure the security of both prison guards and detainees;
- use the opportunity of the EU-LAC Summit to raise concerns about the violent situation surrounding preparatory work on La Parota dam. The Mexican Government should commit itself to investigate those deaths related to the project and protect the integrity of human rights and land; and
- urge the Mexican Government to honour its international obligation to ensure that the rights of Indigenous peoples over lands in accordance with ILO Convention No. 169 and with the UN resolution A/61/L.67 which both Mexico and Slovenia co-sponsored.

4) Protecting migrant and minority workers

Half a million Haitian migrant workers working primarily in agriculture and construction in the Dominican Republic face widespread discrimination, racism and xenophobia. 20,000 to 30,000 Haitians are deported each year, many of them with valid work permits and visas and some are in fact Dominicans with no ties to Haiti. The lack of judicial oversight of these mass expulsions removes a key protection and puts migrants at greater risk of human rights violations, such as arbitrary detention, discrimination, unfair administrative processes and ill-treatment.

Despite the ruling of the Inter-American Court of Human Rights, Dominicans of Haitian descent are still denied birth certificates from the Civil Registrar Office required for entering school beyond primary level and obtaining an identity card, thus preventing them from accessing the regular job market or exercising their right to vote.

RECOMMENDATIONS

- The Presidency should urge the Dominican Republic to take concrete steps towards the implementation of migration policies that protect human rights.
- The Presidency should also call on the Dominican Republic to recognise the right of all Dominican-born children without discrimination on any grounds, to Dominican nationality in accordance with Article 11 of the Dominican Constitution.

5) Business and human rights responsibilities

Alongside the Summit of Heads of States, a business summit will take place - a forum for business opportunities and discussion on economic topics between the EU and LAC countries. But economic cooperation and business development should not forget existing responsibilities under international

human rights law both for states and companies. There is a very important link between business and human rights and all economic actors should be aware of it and assume their duties.

Under international human rights law states have existing duties to protect people within their jurisdiction against human rights violations or abuses, including those violations involving companies. However, there are numerous failures to comply with this duty to protect due to multiple reasons which may include lack of understanding or capacity as well as lack of political will. These compliance failures on the part of states result in a serious human rights protection gap which subsequently ends in grave human rights violations.

A clear case of lack of adequate protection is reflected in the extractive and energy sectors (oil, gas, metals, hydro-electric power, bio-fuels, logging) which are widely associated with human rights violations. Growing demand for access to extractive and energy resources exercises pressure over governments and companies while respect and protection of human rights gets the least of their attention in the process. Prominent human rights violations are forced evictions and forced displacement, including violations of the rights of indigenous peoples; violations of the right to an adequate standard of living, including adequate food and water, and violations of the right to health. Also associated are violations related to security operations, including extra-judicial executions, torture and ill-treatment, excessive use of force and arbitrary detention. The extraction and energy sectors are not only key resources for the Latin American countries but are also crucial to EU companies. Due consideration must be placed on the human rights impact of such economic relations.

Moreover, existing international human rights law does not adequately deal with the responsibility of the states in which multinational companies have their headquarters ("home states") regarding the human rights impact of these companies' operations in other states ("host states"). Home states commonly fail to regulate the extra-territorial human rights impact of companies based in their territory, failing also to monitor their extra-territorial impact or to permit victims of human rights abuses to access justice.

Companies should live up to their human rights responsibilities by, as a minimum, respecting all human rights, adopting measures to ensure they are not complicit in human rights abuses and making a public commitment to human rights.

RECOMMENDATIONS

The Presidency should stress the crucial link between business and human rights and highlight the role of states and companies in their respective human rights duties by:

- urging LAC States to ensure they comply with their duty to protect by, for example, properly regulating the human rights impact of companies and by ensuring access to justice for victims;
- calling on the EU Member States to monitor and regulate the human rights impact of European companies in third countries; and
- underlining the human rights responsibilities of the companies. Their minimum responsibility should be to avoid causing harm to people's enjoyment of their rights, respecting all human rights, and making a public commitment to them.