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COMMISSION ON HUMAN RIGHTS  
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Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO  
ANY FORM OF DETENTION OR IMPRISONMENT

Australia, Austria, Belgium\*, Bulgaria, Canada, Chile, Costa Rica\*,  
Côte d'Ivoire, Cyprus\*, Czech Republic\*, Denmark\*, Finland, France,  
Germany, Greece\*, Hungary, Iceland\*, Ireland\*, Italy, Liechtenstein\*,  
Luxembourg\*, Madagascar\*, Malta\*, Netherlands, Norway\*, Poland,  
Portugal\*, Romania, Slovakia\*, Slovenia\*, Spain\*, Sweden\*,  
Switzerland\*, Ukraine\*, United Kingdom of Great Britain and  
Northern Ireland, United States of America and Venezuela:  
draft resolution

1995/... Torture and other cruel, inhuman or degrading treatment or punishment

A

The Commission on Human Rights,

Having regard to article 5 of the Universal Declaration of Human Rights  
and article 7 of the International Covenant on Civil and Political Rights,  
both of which provide that no one shall be subjected to torture or to cruel,  
inhuman or degrading treatment or punishment,

Recalling the Declaration on the Protection of All Persons from Being  
Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or  
Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of  
9 December 1975,

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\* In accordance with rule 69, paragraph 3, of the rules of procedure of  
the functional commissions of the Economic and Social Council.

Recalling also General Assembly resolution 39/46 of 10 December 1984, in which the Assembly adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and called upon all Governments to consider signing and ratifying the Convention as a matter of priority,

Recalling further the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights, in particular part I, paragraph 30, in which the World Conference stated that torture and other cruel, inhuman or degrading treatment or punishment constituted serious obstacles to the full enjoyment of all human rights, and part II, paragraphs 54 to 61, in which the World Conference urged States to put an immediate end to the practice of torture and to eradicate that evil forever, and stated that providing the necessary resources for assistance to victims of torture should be given high priority, inter alia by additional contributions to the United Nations Voluntary Fund for Victims of Torture,

Bearing in mind its resolutions 1994/36 and 1994/38 of 4 March 1994,

Alarmed at the widespread occurrence of torture and other cruel, inhuman or degrading treatment or punishment,

Aware that torture constitutes a criminal obliteration of the human personality which can never be justified under any circumstances, by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

Determined to promote the full implementation of the prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Mindful of the relevance, for the eradication of torture and other cruel, inhuman or degrading treatment or punishment, of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, of 17 December 1979, annex), the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194, annex), the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex)

as well as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex),

Recalling article 10 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment,

Taking note of the outcome of the second session of the open-ended working group of the Commission on Human Rights on the elaboration of a draft optional protocol to the Convention,

Recalling General Assembly resolution 36/151 of 16 December 1981, in which the Assembly noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture, as well as General Assembly resolution 49/176 of 23 December 1994,

Recalling the statement by the Board of Trustees of the Fund on the need to receive contributions from Governments on a regular basis, which, inter alia, would prevent the interruption of programmes in the continuation of which the Fund plays an instrumental role,

Taking account of the increasing number of projects and the repeated requests by the Board of Trustees of the Fund to have adequate staff for the operations of the Fund,

Taking note of the information provided by the Secretary-General in his reports on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1995/33 and Add.1, A/49/484 and Add.1),

Noting with satisfaction the existence and rapid expansion of an international network of centres for the rehabilitation of torture victims, which play an important role in providing assistance to victims of torture, and the collaboration of the Fund with these centres,

Welcoming the appeal launched by the United Nations High Commissioner for Human Rights during his official visit to Denmark from 27 to 28 June 1994, for, inter alia, a definitive end to and the eradication of torture everywhere

in the world and the ratification and full implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

1. Welcomes the report of the Committee against Torture on its eleventh and twelfth sessions (A/49/44);
2. Expresses its appreciation to the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture for the work it has accomplished;
3. Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23) and, in particular, of the section relating to freedom from torture;
4. Takes note of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/35);
5. Encourages the States Parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;
6. Urges States Parties whose arrears precede the provision made by the Secretary-General for funding the Committee against Torture from the regular budget to fulfil their obligations forthwith;
7. Urges all States to become parties to the Convention as a matter of priority;
8. Invites all States ratifying or acceding to the Convention and those States Parties that have not yet done so to make the declaration provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20;
9. Welcomes the attention that the Committee against Torture has given to the development of an effective system of reporting on the implementation of the Convention by States Parties, including its practice of formulating concluding observations after the consideration of such reports, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture in States Parties;
10. Emphasizes the obligation of States Parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and calls upon the High Commissioner for Human Rights, in conformity with his mandate established in

General Assembly resolution 48/141 of 20 December 1993, to provide advisory services in this regard, taking into account requests received from Governments;

11. Expresses its gratitude and appreciation to those Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

12. Requests the Secretary-General to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

13. Appeals to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund, if possible on a regular basis and annually before the meeting of the Board of Trustees of the Fund, and if possible with a substantial increase in the number and level of contributions in order to take into consideration the ever-increasing demand for assistance;

14. Renews its request to the Secretary-General to transmit to all Governments the appeals of the Commission for contributions to the Fund;

15. Also renews its request to the Secretary-General to make use of all existing possibilities, including the preparation, production and dissemination of information materials, to assist the Board of Trustees of the Fund in its efforts to make the Fund and its humanitarian work better known and in its appeal for contributions;

16. Calls upon the Board of Trustees to report to the Commission at its fifty-second session on the increasing need for overall rehabilitation services for torture victims;

17. Requests the Secretary-General, in accordance with the Vienna Declaration and Programme of Action (A/CONF.157/23, part II, para. 16) to ensure strict and transparent project management rules for the Fund and to arrange for the holding of annual information meetings open to all Member States and organizations directly involved in the projects supported by the Fund;

18. Also requests the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing and technical equipment to ensure the efficient operation and management of the Fund, as well as for the effective performance of the functions of the Committee against Torture;

19. Further requests the Secretary-General to continue to keep the Commission informed of the operations of the Fund on an annual basis and to submit to the Commission annual reports on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

20. Decides to consider these questions at its fifty-second session.

B

The Commission on Human Rights,

Recalling its resolution 1985/33 of 13 March 1985, in which it decided to appoint for one year a special rapporteur on torture, and all its subsequent resolutions in which that mandate was regularly extended, most recently for a further three years in paragraph 13 of resolution 1992/32 of 28 February 1992, while maintaining the annual reporting cycle,

Recalling also the conclusions and recommendations of the Special Rapporteur that the Commission on Human Rights underlined in its resolutions 1987/29 of 10 March 1987, 1988/32 of 8 March 1988, 1989/33 of 6 March 1989, 1990/34 of 2 March 1990, 1991/38 of 5 March 1991, 1992/32 of 28 February 1992, 1993/40 of 5 March 1993 and 1994/37 of 4 March 1994,

1. Commends the Special Rapporteur on his report (E/CN.4/1995/34 and Add.1 and Add.1/Corr.1);

2. Stresses the recommendations of the Special Rapporteur contained in his report;

3. Stresses in particular that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and that those who encourage, order, tolerate or perpetrate such acts must be held responsible and severely punished, especially the official in charge of the place of detention where the prohibited act is found to have taken place;

4. Decides to extend for three years the mandate of the Special Rapporteur on torture, while maintaining the annual cycle of reporting;

5. Invites the Special Rapporteur to examine questions concerning torture directed primarily against women and children and conditions conducive to such torture, and to make appropriate recommendations concerning the prevention of gender-specific forms of torture and the torture of children;

6. Approves the methods of work employed by the Special Rapporteur, in particular as regards urgent appeals;

7. Considers it desirable that the Special Rapporteur should continue to have a further exchange of views with the relevant human rights mechanisms and bodies, especially the Committee against Torture, in particular with a view to enhancing further their effectiveness and mutual cooperation, and that he should pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice;

8. Appeals to all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to supply all information requested, including by reacting properly to his urgent appeals;

9. Urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer expeditiously;

10. Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

11. Calls upon the Special Rapporteur to continue to include information in his report on the follow-up by Governments to his recommendations, visits and communications;

12. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to cover all of his activities in order to enable him to submit his report to the Commission at its fifty-second session.

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