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COMMISSION ON HUMAN RIGHTS
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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, El Salvador, Finland*, France, Germany, Greece*,
Hungary, Iceland*, Ireland*, Italy, Latvia*, Liechtenstein*,
Luxembourg*, Madagascar, Malta*, Netherlands, New Zealand*,
Norway*, Poland*, Portugal*, Romania*, Russian Federation,
Senegal*, Slovakia*, Slovenia*, South Africa*, Spain*, Sweden*,
Switzerland*, Ukraine*, United Kingdom of Great Britain and
Northern Ireland, United States of America, Uruguay* and
Venezuela: draft resolution

1996/... 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,

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

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,

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 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, abrogate legislation leading to impunity for gross violations of human rights such as torture and prosecute such violations, 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 resolution 1995/37 of 3 March 1995,

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

Stressing that torture constitutes a criminal attempt to destroy a fellow human being physically and mentally 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 any practice of torture and other cruel, inhuman or degrading treatment or punishment,

Drawing attention to 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,

Noting the progress made at the fourth 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,

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,

Noting the increasing number of applications to be processed and the repeated requests by the Board of Trustees of the Fund to have adequate staff for the operations of the Fund,

Also noting the information provided by the Secretary-General in his reports on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1996/33 and Add.1 and A/50/512),

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,

Stressing that under article 4 of the Convention acts of torture must be made an offence under the criminal law of States, that they are a grave breach of the Geneva Conventions of 1949 and that the perpetrators are liable to prosecution and punishment,

1. Urges all States to become parties to the Convention as a matter of priority;

2. 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 reservations made to article 20;

3. Encourages 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;

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.4/1996/34);

5. Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action and, in particular, of the section relating to freedom from torture;

6. Welcomes the report of the Committee against Torture on its eleventh and twelfth sessions (A/50/44);

7. Also welcomes the work of the Committee against Torture and its practice of formulating concluding observations after the consideration of 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;

8. Reminds all States that paragraph 60 of the Vienna Declaration and Programme of Action reads "States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law";

9. 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 facilities to ensure the effective performance of the functions of the Committee against Torture;

10. Urges States parties whose arrears predate the provision made by the Secretary-General for funding the Committee against Torture from the regular budget to fulfil their obligations forthwith;

11. 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, at the request of Governments, advisory services in this regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for this purpose;

12. Expresses its appreciation to the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture for the work it has accomplished;

13. Calls upon the Board of Trustees of the Fund to report to the Commission at its fifty-third session and present an updated assessment of the global need for rehabilitation services for torture victims and any need for international funding in this respect;

14. 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;

15. 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;

16. 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;

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

18. Also renews its request to the Secretary-General to make use of all existing possibilities 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;

19. 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;

20. 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 facilities to ensure the efficient operation and management of the Fund;

21. 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;

22. Decides to continue to consider these questions at its fifty-third 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 its resolution 1995/37 B of 3 March 1995, 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, 1994/37 of 4 March 1994 and 1995/37 of 3 March 1995,

1. Commends the Special Rapporteur on his report (E/CN.4/1996/35 and Add.1 and 2);

2. Stresses the recommendations of the Special Rapporteur contained in his report, as well as the recommendations made in previous years as contained in document E/CN.4/1995/34;

3. Stresses in particular that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, that all allegations of any such acts should be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate such acts must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have taken place, and that national legal systems should ensure that the victims of such acts obtain redress, are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation;

4. Reminds all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment;

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 continue to exchange views with the relevant human rights mechanisms and bodies, especially the Committee against Torture and the High Commissioner for Human Rights, in particular with a view to enhancing further their effectiveness and mutual cooperation, and that he 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 his activities in order to enable him to submit his report to the Commission at its fifty-third session.

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