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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

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

Andorra*, Australia, Austria, Canada, Czech Republic*, Denmark,
El Salvador, France, Honduras*, Latvia*, Liechtenstein*,
Madagascar, Norway*, Portugal*, Slovakia*, Sweden* and
Uruguay*: draft resolution

1996/... Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the
right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights,
which reaffirms, in its article 19, the right of everyone to hold opinions
without interference, as well as the right to freedom of expression, including
the freedom to seek, receive and impart information and ideas of all kinds,
regardless of frontiers, either orally, in writing or in print, in the form of
art or through any other media of his choice,

Mindful also that the International Covenant on Civil and Political
Rights also states that the exercise of the right to freedom of expression
carries with it special duties and responsibilities and may therefore be

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

subject to certain restrictions, but that these should be only such as provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or public order (ordre public) or of public health or morals,

Mindful further that the International Covenant on Civil and Political Rights states that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Mindful of the need to ensure that unjustified invocation of national security to restrict the right to freedom of expression and information does not take place,

Considering the promotion and protection of the rights to freedom of opinion and expression, including the right to seek and receive information, as well as the rights to peaceful assembly and association, to be essential to popular participation in decision-making processes and to the realization of all rights set forth in international human rights instruments,

Emphasizing that individuals working in the field of social development can play a useful role in promoting popular participation by the expression of views and information related to the decision-making process,

Recalling its resolution 1993/45 of 5 March 1993, in which it decided to appoint a Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression with a specific mandate, as well as subsequent resolutions in which the Commission took action on his reports,

Recalling also the reports and final conclusions and recommendations on the right to freedom of opinion and expression submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second, forty-third and forty-fourth sessions by the Special Rapporteurs, Mr. Louis Joinet and Mr. Danilo Turk (E/CN.4/Sub.2/1990/11, E/CN.4/Sub.2/1991/9 and E/CN.4/Sub.2/1992/9 and Add.1),

Taking note of the report of the Special Rapporteur and the reference therein to the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995 which are annexed to that report,

Considering that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

Considering also that the right to freedom of opinion and expression is interrelated with and enhances the exercise of all other human rights,

Deeply concerned by numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information, including journalists, editors, writers and authors, translators, publishers, broadcasters, printers and distributors,

Welcoming the agreed conclusions on women and the media adopted by the Commission on the Status of Women on 20 March 1996,

Deeply concerned also that for women in all parts of the world there exists a gap between the right to freedom of opinion and expression and the effective promotion and protection of that right and that this contributes to the underreporting of incidents of discrimination based on sex and inadequate action by Governments to investigate and take appropriate remedial action in response to these incidents,

1. Welcomes the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1996/39 and Add.1 and 2), and recalls his conclusion in his report to the Commission at its fifty-first session that freedom of expression is a fundamental right, the enjoyment of which illustrates in many ways the degree of enjoyment of all human rights enshrined in the International Bill of Human Rights;

2. Notes that the Special Rapporteur recognized in his first report (E/CN.4/1994/33) the need to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue his efforts in this regard;

3. Expresses its concern at the inadequate resources, both human and material, provided to the Special Rapporteur, particularly in the light of the information contained in his latest report, stating that the situation has become more acute in view of the substantially larger number of allegations he has received (E/CN.4/1996/39, para. 6), and accordingly reiterates its request to the Secretary-General to provide, from within existing overall United Nations resources, all the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by strengthening the human and material resources placed at his disposal;

4. Requests the Secretary-General to consider ways of publicizing, particularly within the framework of the information activities of the Centre for Human Rights and the United Nations Decade for Human Rights Education, the work of the Special Rapporteur, as well as recommendations made by him;

5. Expresses its concern at the extensive occurrence of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at, persons who exercise the right to freedom of opinion and expression and the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and the right to take part in the conduct of public affairs as affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

6. Also expresses its concern at the extensive occurrence in many parts of the world of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at, persons who seek to promote and defend these rights and freedoms;

7. Emphasizes that professionals in the field of information play a major role in the promotion and protection of freedom of opinion and expression, and expresses in this regard its deep concern at the numerous reports received by the Special Rapporteur of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at, such professionals, including journalists, editors, writers and authors, translators, publishers, broadcasters, printers and distributors;

8. Expresses its concern at the number of cases of arbitrary detention ordered following the exercise of rights protected by article 19 of the International Covenant on Civil and Political Rights and by other relevant human rights instruments concerning the right to freedom of opinion and expression;

9. Welcomes the release of persons detained for exercising these rights and freedoms, and encourages further progress in this regard;

10. Urges the Special Rapporteur, within the framework of his mandate, to draw the attention of the High Commissioner for Human Rights to those situations regarding freedom of opinion and expression which are of particularly serious concern to the Special Rapporteur, and encourages the High Commissioner for Human Rights, within his mandate, to take into account

reports in this regard in the context of his activities to promote and protect human rights, with a view to preventing the occurrence and recurrence of human rights violations;

11. Invites the Special Rapporteur to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, and to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live;

12. Invites relevant United Nations bodies, mechanisms and procedures of the Commission on Human Rights, the Committee on the Elimination of Discrimination against Women and independent expert bodies, within their mandates, further to examine violations of the right to freedom of opinion and expression, from a gender perspective, in cooperation with the Commission on the Status of Women, as also recommended by that Commission in its agreed conclusions on women and the media of 20 March 1996;

13. Appeals to all States to ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs or who seek to promote and defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence and to harassment, including persecution and intimidation, solely for exercising these rights as laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

14. Also appeals to all States to ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, and in this context to pay particular attention to the situation of women;

15. Once again invites the working groups, representatives and the special rapporteurs of the Commission on Human Rights to pay attention, within

the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments;

16. Urges all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate;

17. Again invites the Special Rapporteur, in his next report, to develop further his commentary on the right to seek and receive information and to expand on his observations arising from communications;

18. Requests the Special Rapporteur to submit to the Commission at its fifty-third session a report covering the activities relating to his mandate;

19. Decides that the mandate of the Special Rapporteur should be renewed for a period of three years;

20. Also decides to continue its consideration of the question at its fifty-third session.
