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COMMISSION ON HUMAN RIGHTS  
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Agenda item 17

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Colombia, Denmark, Mexico, Nicaragua, Norway\*, Peru, Spain\*,  
United States of America and Venezuela: draft resolution

1996/... Assistance to Guatemala in the field of human rights

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations,  
the Universal Declaration of Human Rights and the International Covenants on  
Human Rights,

Reiterating that the Governments of all Member States have an obligation  
to promote and protect human rights and fundamental freedoms, even under  
exceptional circumstances,

Recalling its resolution 1995/51 of 3 March 1995,

Taking into account Sub-Commission on Prevention of Discrimination and  
Protection of Minorities resolution 1995/7 of 18 August 1995,

Having considered the reports of the Working Group on Enforced or  
Involuntary Disappearances (E/CN.4/1996/38 and Add.1) and the Special  
Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1996/4),

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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.

Having considered also the report of the independent expert, Mrs. Mónica Pinto (E/CN.4/1996/15), and studied the conclusions and recommendations contained therein,

Also taking into account the four reports submitted by the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) to the Secretary-General,

Taking note with satisfaction of the legal and institutional reforms undertaken by the previous Government, as well as the measures adopted by the new Government, such as the dismissal of some high-ranking military officers and a large number of members of the security forces, with a view to combating impunity and guaranteeing full enjoyment of human rights and fundamental freedoms for everyone in Guatemala,

Concerned nevertheless by the fact that, despite those reforms, there continue to be serious human rights violations in Guatemala, attributed to members of the armed forces and security forces and to the so-called voluntary civil self-defence committees, whereas it cannot be affirmed that those violations are a consequence of an existing policy of the current Government systematically to violate human rights,

Concerned also by the fact that situations of impunity continue to exist and that, in cases of human rights violations, there has not been sufficient progress in the investigations and/or judicial proceedings,

Regretting the human rights violations, marginalization and centuries-old discrimination that have been suffered by the indigenous populations in Guatemala,

Also regretting that the process of the return of refugees and the resettlement of displaced persons has encountered serious problems, particularly the massacre in the community of "Aurora, 8 de octubre" in Xaman, municipality of Chisec, on 5 October 1995, which constitutes the most significant violation of the human rights of returnees in Guatemala, and recognizing the measures taken by the Government of Guatemala which resulted in the soldiers involved being brought to trial before the competent civil judge, the dismissal of the local detachment commander and the resignation of the Minister of Defence,

Considering that the economic and social situation continues to have serious consequences for the great majority of the population, particularly for the indigenous peoples of Guatemala and the most vulnerable sectors of Guatemalan society,

Taking note with great satisfaction of the historic Agreement on Identity and Rights of Indigenous Peoples, signed in Mexico City on 31 March 1995 between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG),

Recognizing with satisfaction the decision of the previous Government of Guatemala to suspend obligatory military service and to order the demobilization of the paramilitary officers (comisionados militares),

Recognizing the importance of the general elections which were held in November 1995 and January 1996, with the participation, for the first time since 1950, of sectors that had been traditionally marginalized from the political life of the country, and which led to the inauguration of a new government on 14 January 1996, to the formation of a Congress and to the installation of new local governments which are more representative of the interests of the population,

Encouraged by the fact that the new Government of Guatemala has given immediate attention to various problems related to violations of human rights and to impunity, as well as to continuity in the process of negotiation in an effort to establish a firm and lasting peace,

Equally encouraged by the fact that the Government of Guatemala and the URNG General Command have restarted the process of negotiation, with the intention of resolving the remaining substantive issues in the shortest possible time in order to end that process with the signing of a firm and lasting peace agreement within the current year,

Even more encouraged by the declaration of the URNG General Command, on 19 March 1996, on the temporary suspension of offensive military operations, attacks on garrisons, detachments and military installations and the deployment of troops on the roads, and by the corresponding declaration of the Government of Guatemala, on 20 March 1996, issuing instructions to the army of Guatemala to cease their counter-insurgent operations and undertake solely those activities prescribed by their constitutional mandate,

Recognizing the importance of the role played in these negotiations by the moderator appointed by the Secretary-General, of the participation of the

Group of Friendly Countries composed of Colombia, Spain, the United States of America, Mexico, Norway and Venezuela, and of the valuable contributions of the Civil-Society Assembly, on the terms established in the Framework Agreement,

Also recognizing the positive role played by MINUGUA for the benefit of the peace process in carrying out its work of verifying the human rights situation and compliance with the Commitments of the Comprehensive Agreement on Human Rights,

Considering that it is necessary for the international community to continue to keep the human rights situation in Guatemala under review and to provide advisory services in the field of human rights to the Government and to non-governmental organizations, as well as technical and financial assistance for both, with the aim of promoting full respect for human rights and fundamental freedoms and supporting the efforts of the Government and people of Guatemala to that end,

1. Takes note with appreciation of the report of the independent expert and the conclusions and recommendations contained therein (E/CN.4/1996/15);

2. Expresses its gratitude to the Government of Guatemala for the facilities and cooperation afforded to the independent expert in the fulfilment of her mandate;

3. Takes note of the reports that MINUGUA has produced on the activities it has carried out in Guatemala since it began its work on 21 November 1994, thanking the Government of Guatemala and URNG for the cooperation they gave the Mission to assist it in the performance of its functions;

4. Recognizes the efforts made by the Government of Guatemala and encourages it to apply the necessary urgent measures to consolidate democratic institutions and to promote and protect human rights and fundamental freedoms, taking into account the recommendations of the independent expert and the contributions of MINUGUA;

5. Regrets that, notwithstanding these efforts, serious violations of human rights persist, particularly violations of the right to life and threats and intimidation against the physical integrity of individuals, attributed mainly to members of the armed forces and security forces and to the so-called voluntary civil self-defence committees;

6. Urges both parties, the Government of Guatemala and URNG, to respect the applicable rules of international humanitarian law in the internal armed conflict and to refrain from any activities which might endanger the rights of Guatemalans, in particular of the persons specially protected by international humanitarian law, and which might affect the physical security of the civilian population and that of their property;

7. Exhorts the Government of Guatemala to continue to adopt and apply the necessary legal and political measures to strengthen the independence of the judiciary and respect for its members and its decisions, as well as the full application of the rule of law;

8. Also exhorts the Government of Guatemala to intensify investigations enabling all those responsible for violations of human rights to be identified and brought to justice, to provide compensation for the victims of such violations within a legal framework, to ensure that the judicial system can operate with due protection being afforded to judges, investigators, witnesses and relatives of victims, and to facilitate the activities of organizations, both official and non-governmental, concerned with the promotion and protection of human rights;

9. Requests the Government of Guatemala, taking into account the recommendations made by the independent expert, to promote all relevant legislative reforms pertaining to military tribunals, so that violations of human rights committed by members of the armed forces of Guatemala are excluded from their jurisdiction;

10. Takes note with satisfaction of the initial actions of the Government of Guatemala designed to ensure that all authorities, including the armed forces and security forces, fully respect human rights and fundamental freedoms, and encourages it to continue strengthening the civilian authorities to ensure that those decisions are respected;

11. Further exhorts the Government of Guatemala, within the framework of its general human rights policy, to continue to apply the independent expert's recommendations, in particular those relating to a police system answerable to the civilian authorities, and takes note of the declaration made by the Minister of Defence regarding respect for the freedom of the voluntary civil self-defence committees to demobilize, as a means of demilitarizing society and contributing to the tranquillity of the population in the rural areas, within the framework of the peace accords;

12. Takes note that despite the legal and institutional reforms which the previous Government of Guatemala introduced in the system for the administration of justice in order to combat violence and impunity, these still persist, and encourages the new Government to pay particular attention to the legal standards and the content of the Agreement on Identity and Rights of Indigenous Peoples, in order to guarantee the rights and freedoms of all Guatemalans, and, in particular, those of the members of the indigenous populations and of the most vulnerable sectors of society, and also takes note of the initial efforts and measures undertaken by the new Government to combat impunity;

13. Expresses its conviction that the preeminence of civilian authority in the national decision-making process is an indispensable condition for the consolidation of the rule of law and the full realization of human rights, and, in that respect, invites the Government to take into account the independent expert's recommendations to that end and requests it to continue to contribute towards broadening political participation for all political groups and all citizens;

14. Recognizes the positive work done in defence of human rights by the Human Rights Procurator and exhorts the Government to give him support and to guarantee the conditions for the strengthening of his activities, inter alia, through the adoption of legislative measures to enable him to participate in proceedings relating to human rights violations;

15. Exhorts the Government of Guatemala to adopt concrete measures against extreme poverty that will enable the population to attain better living standards, giving priority to economic and social development programmes, and calls on the Government of Guatemala and URNG, in the framework of the negotiations on socio-economic aspects and the agrarian situation, bearing in mind the Agreement on Identity and Rights of Indigenous Peoples, to find a just solution to the demands of the Guatemalan people in general and the indigenous communities in particular, as expressed through the appropriate proposals of the Civil-Society Assembly and other sectors of the population;

16. Takes note of the continuation of the refugee repatriation process, urges the competent authorities to ensure that this process is accomplished with full consideration for the well-being and dignity of all affected

persons, providing the necessary facilities for their prompt resettlement, and urges the parties concerned to comply strictly with the agreements reached on the subject since October 1992;

17. Urges the Government of Guatemala to continue to assist the civilian population displaced by the internal armed conflict and to facilitate its resettlement, on the basis of the recommendations of the Technical Commission provided for in the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict;

18. Congratulates the Government and Congress of Guatemala on the ratification of the International Labour Organization's Convention No. 169 concerning indigenous and tribal peoples in independent countries, and invites the Government to consider ratifying as soon as possible the other international human rights instruments to which it is not yet a party;

19. Asks the Congress of the Republic to adopt at the earliest possible date the law regulating obligatory non-discriminatory military service, taking into account inter alia the proposals for voluntary civilian service;

20. Expresses its satisfaction at the implementation of the electoral process for the posts of President and Vice-President and for the Congress, the Central American Parliament and municipal governments, in which traditionally excluded sectors were able to participate, as well as the inauguration of the new civilian Government, presided over by Mr. Alvaro Arzú, the installation of a Congress and the initiation of activities by local governments which are more representative of the interests of the people;

21. Also expresses its satisfaction at the signing of the Agreement on Identity and Rights of Indigenous Peoples on 31 March 1995, at the role played by MINUGUA in the country and at the resumption of negotiations between the new Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG);

22. Expresses its satisfaction to the Government of Guatemala and to URNG for the boost given to the negotiations which seek to achieve agreements on the pending items on the agenda, with the corresponding mechanisms for verification, and expresses confidence that URNG will maintain the suspension of offensive military action and that the army will maintain its suspension of counter-insurgency action and undertake solely those activities stipulated for it in the Constitution, in order to secure the signing of a firm and lasting peace agreement in the shortest possible time;

23. Commends the work of the moderator appointed by the Secretary-General, the efforts of the Group of Friendly Countries to advance the peace process in Guatemala and the valuable contributions of the Civil-Society Assembly;

24. Requests the Secretary-General to increase, within overall existing resources, advisory services in the field of human rights to the Government of Guatemala and to develop specific programmes with non-governmental organizations;

25. Also requests the Secretary-General to extend the mandate of the independent expert so that she may continue to examine the situation of human rights in Guatemala, taking into account the work of MINUGUA, provide assistance to the Government in the field of human rights, and submit to the Commission at its fifty-third session a report containing, among other items, an evaluation of the measures taken by the Government in accordance with the recommendations made to it;

26. Decides to consider at its fifty-third session the report of the independent expert on the situation of human rights in Guatemala.

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