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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Andorra*, Austria, Belgium*, Cyprus*, Czech Republic*, Denmark, Finland*,
France, Germany, Greece*, Hungary, Ireland*, Italy, Japan, Kuwait*,
Liechtenstein*, Lithuania*, Luxembourg*, Netherlands, Norway*, Portugal*,
Romania*, San Marino*, Slovakia*, Spain*, Sweden*, Switzerland*,
United Kingdom of Great Britain and Northern Ireland: draft resolutions

1996/... Situation of Human Rights in Iraq

The Commission on Human Rights,

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

Recalling that human rights and fundamental freedoms are the birthright
of all human persons and that their protection and promotion is the first
responsibility of Governments,

Reaffirming that all Member States have the duty to fulfil the
obligations they have undertaken under the various international instruments
in this field,

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

Mindful that Iraq is a party to the International Covenants on Human Rights and to other international human rights instruments,

Recalling Security Council resolution 688 (1991) of 5 April 1991, in which the Council demanded an end to the repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations to ensure that the human and political rights of all Iraqi citizens were respected,

Recalling also Security Council resolutions 706 (1991) of 15 August 1991, 712 (1991) of 19 September 1991 and 778 (1992) of 2 October 1992,

Recalling further Security Council resolution 986 (1995) of 14 April 1995, by which the Council authorized States to permit imports of Iraqi oil up to the amount of 1 billion United States dollars every 90 days, on a renewable basis, to be used to purchase essential food and medical supplies for humanitarian purposes, and welcoming the acceptance by the Government of Iraq of the Secretary-General's invitation to enter into discussion on this issue with the United Nations Secretariat,

Recalling in particular its resolution 1991/74 of 6 March 1991, in which the Commission requested its Chairman to appoint a special rapporteur to make a thorough study of the violations of human rights by the Government of Iraq, based on all information the Special Rapporteur might deem relevant, including information provided by intergovernmental and non-governmental organizations and any comments and material provided by the Government of Iraq,

Also recalling its pertinent resolutions condemning the flagrant violations of human rights by the Government of Iraq, including resolution 1992/71 of 5 March 1992, in which it requested the Special Rapporteur to continue to pursue his mandate and to visit again the northern area of Iraq in particular, as well as resolution 1995/76 of 8 March 1995, in which it extended the mandate of the Special Rapporteur for a further year and requested him to submit an interim report to the General Assembly at its fiftieth session and a report to the Commission at its fifty-second session,

Further recalling the pertinent resolutions of the General Assembly, in particular resolution 50/191 of 22 December 1995, in which the Assembly, deeply concerned at the overall human rights situation in Iraq, decided to continue its consideration of the situation of human rights in Iraq at its fifty-first session in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council,

Deeply concerned at the persisting massive and grave violations of human rights by the Government of Iraq, regarding which there are no signs of improvement, such as summary and arbitrary executions, the enactment and implementation of decrees prescribing cruel and inhuman punishments, torture and other cruel, inhuman or degrading treatment, arbitrary arrests and detentions, lack of due process, non-respect for the rule of law and the suppression of freedom of thought, of expression and of association, as well as the persistence of specific discrimination within the country as regards access to food and health care, which amounts to a violation of the economic and social rights of Iraqis,

Reaffirming that the Government of Iraq is held to respect the right to life, personal security and the rule of law in Iraq, and that the extrajudicial killing of persons considered to be hostile to the regime is a grave violation of international human rights standards,

Deeply disturbed by reports about the climate of oppression and the dire economic and social situation in the south of Iraq,

Noting the responsibility of the Iraqi authorities with regard to persons missing and detained as a result of the Iraqi occupation of Kuwait, and noting also that Iraq has recently renewed its participation in the Tripartite Commission established pursuant to the cease-fire agreement of 1991,

Regretting that the Government of Iraq has not seen fit to respond to the formal request of the Special Rapporteur on the situation of human rights in Iraq to visit Iraq, that there is now little in the way of even formal cooperation extended to the Special Rapporteur by the Government of Iraq and in particular that full replies have still not been given to the many questions the Special Rapporteur has put to the Government of Iraq in previous years,

Expressing concern at the exceptional gravity of the human rights situation in Iraq and, therefore, endorsing the Special Rapporteur's repeated proposals for the deployment of a team of human rights monitors and for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and would help in the independent verification of reports on the situation of human rights in Iraq,

Welcoming in that respect the sending of two fact-finding missions in order to obtain supplementary information and testimonies from Iraqi citizens

who recently fled Iraq, victims of severe human rights violations for whom the Government of Iraq has general responsibility under international law,

1. Takes note with appreciation of the report on the situation of human rights in Iraq submitted by the Special Rapporteur (E/CN.4/1996/61) and the conclusions and recommendations contained therein;

2. Expresses its strong condemnation of the massive and extremely grave violations of human rights for which the Government of Iraq is fully responsible, resulting in an all-pervasive order of repression and oppression which is sustained by broad-based discrimination and widespread terror, in particular:

(a) Summary and arbitrary executions, including political killings;

(b) The widespread routine practice of systematic torture in its most cruel forms;

(c) The enactment and implementation of decrees prescribing cruel and unusual punishment, namely mutilation, as a penalty for certain offences and the abuse and diversion of medical-care services for the purpose of such mutilations;

(d) Enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law;

(e) Suppression of freedom of thought, information, expression, association and assembly, through fear of arrest, imprisonment and other sanctions, including the death penalty, as well as harsh limitations on freedom of movement;

3. Calls upon the Government of Iraq to resolve the cases of disappearances of Kuwaitis and nationals of other States by providing detailed information on all persons deported from or arrested in Kuwait between 2 August 1990 and 26 February 1991 and on those who were executed or died in detention during or after that period, as well as on the location of their graves, and also calls in particular upon the Government of Iraq:

(a) To release immediately all Kuwaitis and nationals of other States who may still be held in detention;

(b) To step up its cooperation with the Tripartite Commission aimed at discovering the whereabouts and resolving the fates of the remaining several

hundred missing persons and prisoners of war, Kuwaitis and third-country nationals who disappeared during or subsequent to the illegal Iraqi occupation of Kuwait;

(c) To establish immediately a national commission on disappearances and take appropriate steps to cooperate closely with the Working Group on Enforced or Involuntary Disappearances to look into the fate of those who disappeared;

(d) To pay appropriate compensation to the families of persons who died while in the custody of Iraqi authorities or for whom the Government of Iraq is responsible and has so far failed to account, through the mechanism established by Security Council resolution 692 (1991) of 20 May 1991;

4. Takes note of recent negotiations indicating some willingness on the part of the Government of Iraq to discuss the modalities of implementing the "oil for food" formula, and urges the Government of Iraq to cooperate with the United Nations to come to a conclusion of those negotiations in order to purchase urgently needed food and medical supplies for humanitarian purposes, as authorized by the Security Council in its resolution 986 (1995) of 14 April 1995;

5. Calls once again upon Iraq, as a State party to the International Covenant on Economic, Social and Cultural Rights and to the International Covenant on Civil and Political Rights, to abide by its freely undertaken obligations under the Covenants and under other international instruments on human rights, and particularly to respect and ensure the rights of all individuals, irrespective of their origin, within its territory and subject to its jurisdiction;

6. Demands that the Government of Iraq:

(a) Bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(b) Restore the independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(c) Abrogate all decrees that prescribe cruel and inhuman punishment or treatment and take every step necessary to ensure that all persons arbitrarily detained are immediately released and that the practice of torture and cruel and unusual punishments and treatment no longer occurs;

(d) Abrogate also all laws and procedures, including Revolution Command Council Decree No. 840, of 4 November 1986, that penalize the free expression of competing views and ideas, and to ensure that the genuine will of the people shall be the basis of authority in the State;

(e) Having sole responsibility in this regard, remove the internal embargo on the northern region, which permits essentially no exceptions for humanitarian needs, eliminate its discriminatory practices restricting access to food and health care in the southern region and cooperate with international humanitarian agencies in the provision of relief to those in need throughout Iraq;

(f) Cease immediately its repressive practices aimed at the Iraqi Kurds and other minorities, as well as the population of the southern marsh area, cooperate in the identification of minefields existing throughout Iraq with a view to facilitating their marking and eventual clearing and cooperate with international aid agencies to provide humanitarian assistance in the northern and southern areas of the country;

7. Regrets the failure of the Government of Iraq to provide satisfactory replies concerning the violations of human rights brought to the attention of the Special Rapporteur, and calls upon the Government to reply without delay in a comprehensive and detailed manner so as to enable the Special Rapporteur to formulate the appropriate recommendations to improve the situation of human rights in Iraq;

8. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance in carrying out his mandate and to take the necessary measures in order to send a team of human rights monitors to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq;

9. Decides to extend for a further year the mandate of the Special Rapporteur, as contained in Commission resolutions 1991/74 of 6 March 1991, 1992/71 of 5 March 1992, 1993/74 of 10 March 1993, 1994/74 of 9 March 1994 and 1995/76 of 8 March 1995;

10. Urges the Government of Iraq to accord its full cooperation to the Special Rapporteur, in particular during his next visit to Iraq;

11. Requests the Special Rapporteur to report periodically to the Commission on Human Rights on the situation of human rights in Iraq and to submit an interim report on the situation of human rights in Iraq to the General Assembly at its fifty-first session and a report to the Commission at its fifty-third session;

12. Requests the Secretary-General to provide appropriate additional resources, from within existing overall United Nations resources to fund the sending of human rights monitors;

13. Decides to continue its consideration of the situation of human rights in Iraq, under the same agenda item, at its fifty-third session.
