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PROMOTION AND PROTECTION OF HUMAN RIGHTS

Albania*, Andorra*, Angola*, Argentina, Armenia*, Australia*, Austria, Azerbaijan*, Belarus*, Belgium*, Bolivia*, Bosnia and Herzegovina*, Brazil*, Bulgaria*, Cambodia*, Canada, Cape Verde, Chile, Colombia, Costa Rica*, Croatia*, Cyprus*, Czech Republic, Denmark*, Dominican Republic*, Ecuador, El Salvador, Estonia*, Finland*, France, Georgia*, Germany, Greece*, Haiti*, Honduras*, Hungary*, Iceland*, Ireland, Israel*, Italy, Latvia, Liechtenstein*, Lithuania*, Luxembourg, Malta*, Mauritius, Mexico, Monaco*, Netherlands*, New Zealand*, Nicaragua*, Norway, Panama*, Paraguay*, Poland, Portugal*, Romania, Russian Federation, San Marino*, Sao Tome and Principe*, Slovakia*, Slovenia*, South Africa, Spain*, Sweden*, Switzerland*, The former Yugoslav Republic of Macedonia*, Turkmenistan*, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela:
draft resolution

1999/... Question of the death penalty

The Commission on Human Rights,

Recalling article 3 of the Universal Declaration of Human Rights, which affirms the right of everyone to life, article 6 of the International Covenant on Civil and Political Rights and articles 6 and 37 (a) of the Convention on the Rights of the Child,

* 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 resolutions 2857 (XXVI) of 20 December 1971 and 32/61 of 8 December 1977 on capital punishment, as well as resolution 44/128 of 15 December 1989, in which the Assembly adopted and opened for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty,

Recalling further Economic and Social Council resolutions 1574 (L) of 20 May 1971, 1745 (LIV) of 16 May 1973, 1930 (LVIII) of 6 May 1975, 1984/50 of 25 May 1984, 1985/33 of 29 May 1985, 1989/64 of 24 May 1989, 1990/29 of 24 May 1990, 1990/51 of 24 July 1990 and 1996/15 of 23 July 1996,

Recalling its resolution 1998/8 of 3 April 1998 in which it expressed its conviction that abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights,

Welcoming the exclusion of capital punishment from the penalties that the International Criminal Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the International Criminal Court are authorized to impose,

Commending those countries which have recently abolished the death penalty,

Welcoming the fact that many countries, while still keeping the death penalty in their penal legislation, are applying a moratorium on executions,

Referring to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1999/39 and Add.1), with respect to the Safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984,

Deeply concerned that several countries impose the death penalty in disregard of the limitations provided for in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child,

Concerned also that several countries, in imposing the death penalty, do not take into account the Safeguards guaranteeing protection of the rights of those facing the death penalty,

1. Welcomes the report of the Secretary-General containing information on changes in law and practice concerning the death penalty worldwide (E/CN.4/1999/52 and Corr.1 and Add.1) and further positive developments reflected in that report;

2. Calls upon all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

3. Urges all States that still maintain the death penalty:

(a) To comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, notably not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, not to impose it for crimes committed by persons below 18 years of age, to exclude pregnant women from capital punishment and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;

(b) To ensure that the notion of "most serious crimes" does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent financial crimes or for non-violent religious practice or expression of conscience;

(c) Not to enter any new reservations under article 6 of the International Covenant on Civil and Political Rights which may be contrary to the object and the purpose of the Covenant and to withdraw any such existing reservations, given that article 6 of the Covenant enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area;

(d) To observe the Safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50, and to comply fully with their international obligations, in particular with those under the Vienna Convention on Consular Relations;

(e) Not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person;

(f) Not to execute any person as long as any related legal procedure, at international or at national level, is pending;

4. Calls upon all States that still maintain the death penalty:

(a) Progressively to restrict the number of offences for which the death penalty may be imposed;

(b) To establish a moratorium on executions, with a view to completely abolishing the death penalty;

(c) To make available to the public information with regard to the imposition of the death penalty;

5. Requests States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that capital punishment will not be carried out;

6. Requests the Secretary-General to submit his sixth quinquennial report on capital punishment and implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty, due in 2000 in accordance with Economic and Social Council resolution 1995/57 of 28 July 1995, to the Commission at its fifty-sixth session;

7. Decides to continue consideration of the matter at its fifty-sixth session under the same agenda item.
