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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-second session
Agenda item 9 (b)

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

APPLICATION OF INTERNATIONAL STANDARDS CONCERNING
THE HUMAN RIGHTS OF DETAINED JUVENILES

Mr. Bengoa, Ms. Daes, Mr. Eide, Mr. Fan Guoxiang, Mr. Fix-Zamudio,
Mr. Goonesekere, Mr. Guissé, Ms. Hampson, Mr. van Hoof, Mr. Joinet,
Mr. Kartashkin, Mr. Ogurtsov, Mr. Oloka-Onyango, Mr. Pinheiro,
Mr. Rodriguez-Cuadros, Mr. Sik Yuen, Mr. Park, Mrs. Warzazi,
Mr. Weissbrodt, Mr. Yimer, Mr. Yokota and Ms. Zerrougi: draft resolution

2000/... The death penalty in relation to juvenile offenders

The Sub-Commission on the Promotion and Protection of Human Rights

Reaffirming the development towards the abolition of the death penalty generally, as reflected in article 6, paragraph 2, of the International Covenant on Civil and Political Rights and in the Second Optional Protocol thereto, aiming at the abolition of the death penalty, Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 4, paragraphs 2 and 3, of the American Convention on Human Rights and the Protocol to the American Convention to Abolish the Death Penalty,

Recalling Commission on Human Rights resolutions 1998/8 of 3 April 1998, 1999/61 of 28 April 1999 and 2000/65 of 26 April 2000, in which the Commission expressed the conviction that abolition of the death penalty contributed to the enhancement of human dignity and to the progressive development of human rights,

Noting that the death penalty is often imposed after trials which do not conform to international standards of fairness and that members of racial, national or ethnic minorities appear to be disproportionately subject to the death penalty,

Welcoming the tendency in retentionist States to restrict the number of crimes carrying a possible death sentence,

Welcoming also the fact that many countries, whilst retaining the death penalty in their penal legislation, are applying a moratorium on executions,

Recalling the view of the Commission on Human Rights that the death penalty should not be imposed on or carried out against a person suffering from any form of mental disorder,

Reaffirming the prohibition of the imposition of the death penalty on those aged under 18 at the time of the commission of the offence, as enshrined in article 6, paragraph 5, of the International Covenant on Civil and Political Rights, article 37 (a) of the Convention on the Rights of the Child, article 5, paragraph 3, of the African Charter on the Rights and Welfare of the Child, article 77, paragraph 5, of Protocol I and article 6, paragraph 4, of Protocol II Additional to the Geneva Conventions of 12 August 1949,

Affirming that the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law,

1. Condemns unequivocally the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence;
2. Calls upon also States that retain the death penalty for juvenile offenders to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence and, in the meantime, to remind their judges that the imposition of the death penalty against such offenders is in violation of international law;
3. Calls upon all States in which the death penalty has been imposed on a person aged under 18 at the time of the commission of the offence after the State ratified the Convention on the Rights of the Child and/or after the entry into force of domestic legislation abolishing the imposition of the death penalty on juvenile offenders to remind their judges that the imposition of the death penalty against such offenders is in violation of international and/or national law;

4. Requests the Commission on Human Rights to reaffirm its resolution 2000/65 at its fifty-seventh session;

5. Decides to continue consideration of this matter at its fifty-third session under the same agenda item;

6. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, recalling its resolutions 1998/8 of 3 April 1998, 1999/61 of 28 April 1999 and 2000/65 of 27 April 2000 on the question of the death penalty, recalling also Sub-Commission resolution 1999/4 of 24 August 1999 on the death penalty, particularly in relation to juvenile offenders, and taking note of Sub-Commission resolution 2000/... of .. August 2000 on the death penalty in relation to juvenile offenders, confirms that international law concerning the imposition of the death penalty in relation to juveniles clearly establishes that the imposition of the death penalty on persons aged under 18 years at the time of the offence is in contravention of customary international law.”
