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CIVIL AND POLITICAL RIGHTS

Albania*, Andorra*, Armenia, Austria*, Belgium*, Brazil, Canada, Chile*, Croatia*, Cyprus*, Czech Republic*, Denmark*, Estonia*, Finland, France, Germany, Greece*, Hungary, Ireland, Italy, Latvia*, Lithuania*, Luxembourg*, Mexico, Norway*, Poland*, Portugal*, Romania, Serbia and Montenegro*, Slovenia*, Slovakia*, Spain*, Sweden*, Switzerland*, Ukraine and United Kingdom of Great Britain and Northern Ireland: draft resolution

2005/... Extrajudicial, summary or arbitrary executions

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, and the relevant provisions of the International Covenant on Civil and Political Rights,

Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions contained in Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,

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

Mindful of all General Assembly resolutions and of Commission resolutions on extrajudicial, summary or arbitrary executions, in particular its resolutions 2001/45 of 23 April 2001 and 2004/37 of 19 April 2004,

Recalling Economic and Social Council resolution 1984/50 of 25 May 1984 and the safeguards guaranteeing protection of the rights of those facing the death penalty, annexed thereto, and Council resolution 1989/64 of 24 May 1989 on their implementation, as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Recalling also Economic and Social Council resolution 1989/65 of 24 May 1989, in which the Council recommended the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions,

Convinced of the need for effective action to combat and to eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the inherent right to life,

Acknowledging that extrajudicial, summary or arbitrary executions can amount to genocide, crimes against humanity or war crimes, as defined under the Rome Statute of the International Criminal Court, and noting the 98 ratifications or accessions by States and the 139 signatures to date by States to the Rome Statute of the International Criminal Court as well as the first referrals by States and the Security Council of a situation to the Court and the ongoing investigations by the Prosecutor,

Acknowledging also that international human rights law and international humanitarian law are complementary and not mutually exclusive and stressing the importance of adopting a victim's perspective in the prevention of extrajudicial, summary or arbitrary executions,

Dismayed that in a number of countries impunity, the negation of justice, continues to prevail and often remains the main cause of the continued occurrence of extrajudicial, summary or arbitrary executions,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

1. *Strongly condemns once again* all extrajudicial, summary or arbitrary executions that continue to take place throughout the world;
2. *Notes with deep concern* that in certain circumstances, cases of extrajudicial, summary or arbitrary executions may result in mass murder, ethnic cleansing or genocide;
3. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to combat and eliminate the phenomenon in all its forms;
4. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions, as stated in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;
5. *Reaffirms* the obligation of States to protect the inherent right to life of all persons under their jurisdiction and calls upon States concerned to investigate promptly and thoroughly all cases of killings, including those committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation; racially motivated violence leading to the death of the victim; killings of members of national, ethnic, religious or linguistic minorities, of refugees, of internally displaced persons, of street children, of members of indigenous communities or of migrants; killings of persons for reasons related to their activities as human rights defenders, lawyers, doctors, journalists or as demonstrators, in particular as a consequence of their exercise of the right to freedom of opinion and expression; as well as other cases where a person's right to life has been violated, all of which are being committed in various parts of the world, and to bring those responsible to justice before a competent, independent and impartial national tribunal or, where appropriate, international

tribunal, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by Government officials or personnel;

6. *Calls upon* all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, including in particular articles 6, 7 and 14 of the International Covenant on Civil and Political Rights and articles 37 and 40 of the Convention on the Rights of the Child, bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

7. *Urges* all States to take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during internal and communal violence, civil unrest, public demonstrations, public emergency and armed conflicts, and to ensure, through education, training and other measures, that police, law enforcement officials, armed forces and other Government officials act with restraint and in conformity with international human rights law and international humanitarian law, and to include a gender perspective in such measures;

8. *Notes with deep concern* that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions;

9. *Recognizes* the International Criminal Court as an important contribution to ending impunity for extrajudicial, summary or arbitrary executions and calls upon all States to consider signing, ratifying or acceding to the Rome Statute of the International Criminal Court;

10. *Acknowledges* the importance of the special procedures of the Commission, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, in their role as early warning mechanisms in preventing the crime of genocide and crimes against humanity, and encourages them to cooperate towards this end;

11. *Appeals* to all States to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions

in places of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977 in relation to the treatment of prisoners in armed conflicts, as well as to other pertinent international instruments;

12. *Takes note* of the report of the Special Rapporteur (E/CN.4/2005/7) and the attention given therein to specific categories of victims who are particularly vulnerable to or have been directly targeted for extrajudicial, summary or arbitrary executions, and the conclusions and recommendations contained therein, and invites States to give them due consideration;

13. *Commends* the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within the framework of his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in the elaboration of his reports;

14. *Strongly urges* all States to cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively, including, where appropriate, by issuing invitations to the Special Rapporteur when he so requests, in keeping with the usual terms of reference for missions by special rapporteurs of the Commission, and to respond to the communications transmitted to them by the Special Rapporteur;

15. *Expresses its appreciation* to those States that have invited the Special Rapporteur to visit their countries, asks them to examine carefully the recommendations made by the Special Rapporteur, invites them to report to the Special Rapporteur on the actions taken on those recommendations and requests other States, including those mentioned in the report of the Special Rapporteur, to cooperate in a similar way;

16. *Calls upon* all States to reply in a timely manner to the extent possible to specific allegations, based on credible information, and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur, and takes note of the steps taken by the Special Rapporteur to enhance the rate and quality of responses on the part of States;

17. *Expresses its concern* that a number of States mentioned in the report of the Special Rapporteur have not replied to specific allegations, based on credible information, and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur;

18. *Urges* the Special Rapporteur to continue to draw to the attention of the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide such situations of extrajudicial, summary or arbitrary execution as are of particularly serious concern to him or where early action might prevent further deterioration;

19. *Again requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources in order to enable him to carry out his mandate effectively, including through country visits;

20. *Also requests* the Secretary-General and the High Commissioner to continue to use their best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 7, 9, 14 and 15 of the International Covenant on Civil and Political Rights appears not to be respected;

21. *Further requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious violations of international human rights and international humanitarian law, such as extrajudicial, summary or arbitrary executions;

22. *Decides* to consider during each of its sessions the reports of the Special Rapporteur and to take action on the question of extrajudicial, summary or arbitrary executions at its sixty-third session under the same agenda item.
