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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities

THE QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO
ANY FORM OF DETENTION OR IMPRISONMENT

Statement dated 23 July 1974 submitted by Amnesty International, a
non-governmental organization in category II consultative status

The Secretary-General has received the following statement, which is circulated in accordance with paragraphs 29 and 30 of Economic and Social Council resolution 1296 (XLIV):

The question of torture in relation to the work of the United Nations

When Amnesty International started an international Campaign for the Abolition of Torture in December 1972, it was clear that one field of action which was to be considered of major, and in the long run hopefully decisive, importance was the strengthening and, where necessary, creation of effective legal and diplomatic machinery on the intergovernmental level that would provide safeguards against systematic violations by Governments of article 5 of the Universal Declaration of Human Rights.

Where the individual is left without any defence against the limitless power of the State, the only forum left to him is that of international public opinion. Non-governmental organizations can do much to help him gain access to such a forum, but ultimately there is no redress available. Although it would be an illusion to believe that, while maintaining the full extent of state sovereignty on matters of internal security, such ultimate redress will ever be available, much more can be done on the intergovernmental level to protect the individual against violations of his human rights, in particular with a view to prevention.

It was a significant step forward when the United Nations General Assembly unanimously adopted resolution 3059 (XXVIII) of 2 November 1973, in which it rejected any form of torture and other cruel, inhuman or degrading treatment or punishment. However, the question arises as to how existing international machinery

can be used more effectively to curb the widespread practice of torture, and where it needs strengthening and expansion, in order to give this resolution its proper follow-up.

It should be restated that the present world situation with regard to the practice of torture fully warrants a major effort by the United Nations and its agencies to combat it. Although critical political changes have taken place in some countries affecting the situation with regard to torture since Amnesty International prepared its Report on Torture in the autumn of 1973, this volume still offers a valid picture of the widespread occurrence of this evil tool of governmental control over political dissent. One clear example has emerged recently of how torture can become a systematic, administrative practice, fully condoned and even authorized by the Government, to wipe out all forms of opposition, without any attempt to uphold even the slightest appearance of judicial control.

After the change of Government in Portugal on 25 April 1974, for the first time in recent history the torture chambers of a modern dictatorial State were opened and gruesome details were revealed of the highly sophisticated and effective torture methods that were employed there by the previous régime to extract information and confessions, to break victims physically and mentally, and to act as a deterrent for the whole population. Amnesty International, in its campaign for the abolition of torture, has consistently stressed the dangers of abuse of scientific research and technology, the circumstantial evidence that medical personnel are in many countries highly involved in torture practices, and the corruption of the judiciary that necessarily accompanies and reinforces these practices. The recent disclosures in Portugal present us with shocking confirmation of all this, all the more disturbing because in a number of countries all over the world we are faced with a similar picture of highly developed internal security, political imprisonment and torture as in pre-coup Portugal.

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As a result of the International Conference for the Abolition of Torture, held in Paris on 10 and 11 December 1973, Amnesty International has drawn up a 100-point action programme, to be carried out on a number of national and international levels. The first 14 action proposals are directed towards international governmental organizations, and are given in the attached addendum.

In view of the fact that the Sub-Commission on Prevention of Discrimination and Protection of Minorities has itself asked the United Nations Commission on Human Rights for authorization to include the item on the question of the human rights of persons subjected to any form of detention or imprisonment on the agenda of its twenty-seventh session, Amnesty International is fully confident that the Sub-Commission will give due consideration to the problem of torture. Indeed, it is respectfully suggested that the Sub-Commission may wish to set up a working group on torture.

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Addendum

1. The competence of the United Nations Human Rights Commission to receive and examine communications from States (article 41 of the International Covenant on Civil and Political Rights), or from individuals (Optional Protocol to the same Covenant) regarding violations of the said rights, should be strengthened and expanded, particularly by universal ratification of the International Covenant on Civil and Political Rights and the Optional Protocol thereto.

2. The procedure of Economic and Social Council resolution 1503 (XLVIII) of 1970, permitting examination of communications containing reliably attested evidence of consistent patterns of gross violations of human rights, needs to be improved and expanded. The results of such examinations should, by way of sanction, be publicized. States which refuse to allow an independent investigation into allegations of torture on their territory should be held morally accountable and denounced by the United Nations.

3. The establishment of a United Nations High Commissioner for Human Rights, who would be able to investigate allegations of torture, should be considered.

4. Existing efforts to develop an International Court of Criminal Justice should be continued. Pending its establishment, NGOs should set up international tribunals which could carry out public hearings on allegations of torture. In this respect special attention should be given to a resolution drawn up by a number of NGOs to set up a body with powers to investigate complaints and report them to the General Assembly of the United Nations. At all events, NGOs should be enabled to carry out on-the-spot fact-finding missions in case of torture allegations. Particular stress should be laid on the right of individual petition, as already existing under the European Convention on Human Rights.

5. Resolution 3059 (XXVIII) of 2 November 1973 should be followed up, in particular in connexion with the proposed draft for a United Nations resolution on a convention on torture and the treatment of prisoners.

6. Torture should be prohibited by adopting the Standard Minimum Rules for the Treatment of Prisoners. Regular machinery should be introduced for member States to report to the Secretary-General on the application of the United Nations Standard Minimum Rules within their country. Governments should not be allowed to use minimum standards of behaviour as a pretext for lowering already existing standards. This matter should be given priority at the United Nations Conference on the Prevention of Crime and the Treatment of Delinquency to be held in Toronto in 1975.

7. In view of the fact that all relevant international law prohibits the use of torture, States must be pressured to create equivalent national legislation if it does not now exist, and to establish implementation procedures strong enough to withstand the conflict situations in which torture is most frequently practised.

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8. Torture should be declared a crime against humanity, and as such not subject to a statute of limitations; States would be obliged, in accordance with the principle of universality, either to try themselves or to extradite torturers.

9. The strict application of the four Geneva Conventions of 1949 and the implementation of their system of supervision should be guaranteed; with regard to the Third Convention, visits to prisoners of war by an impartial humanitarian organization, such as the International Committee of the Red Cross, and the exchange of lists of prisoners of war, have proved to constitute an effective means of preventing torture. The Geneva Diplomatic Conferences on Humanitarian Law should seek ways of improving the implementation of humanitarian law in international and non-international armed conflicts.

10. Procedures should be established with the appropriate specialized agencies to receive and examine complaints by or against medical and legal personnel; reasonable safeguards should thereby be adopted to provide accused persons and institutions with the possibility to defend themselves.

11. International legal safeguards should be developed against the abuse of scientific research for the purpose of torture.

12. The manufacture and export of instruments explicitly designed for torture should be forbidden, as well as training and technical assistance in torture.

13. The United Nations Commission on Human Rights or the Department of Social Defence should give priority to discussing a proposed code of ethics for military and police forces; this code of interrogation procedure for military and police use should be drafted without delay, and submitted to the United Nations and to Governments for approval, and also distributed to police academies and military training centres (especially those specializing in counter-insurgency). (See also Economic and Social Council resolution 1794 (LIV) concerning the preparation of an international code of police ethics; the question of a European code of police ethics has recently been taken up in the framework of the Council of Europe.)

14. With regard to countries where there exists no free formation of public opinion, international instruments and organizations should be used for this purpose, UNESCO hereby carrying a special responsibility regarding education in human rights.
