

1984/50. Safeguards guaranteeing protection of the rights of those facing the death penalty

The Economic and Social Council,

Having regard to the provisions bearing on capital punishment in the International Covenant on Civil and Political Rights,¹²⁰ in particular article 2, paragraph 1, and articles 6, 14 and 15 thereof,

Recalling General Assembly resolution 38/96 of 16 December 1983, in which, inter alia, the Assembly expressed its deep alarm at the occurrence on a large scale of summary or arbitrary executions,

Recalling also General Assembly resolution 36/22 of 9 November 1981, in which the Committee on Crime Prevention and Control was requested to examine the problem with a view to making recommendations,

Recalling further Council resolution 1983/24 of 26 May 1983, in which it decided that the Committee on Crime Prevention and Control should further study the question of death penalties that did not meet the acknowledged minimum legal guarantees and safeguards, as contained in the International Covenant on Civil and Political Rights and other international instruments, and welcomed the intention of the Committee that the issue should be discussed at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Acknowledging the work done by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the areas of summary or arbitrary executions, including the reports of the Special Rapporteur,¹²¹

Considering the relevant views and comments of the Human Rights Committee established under the International Covenant on Civil and Political Rights,

Expressing its concern at the tragic incidence of arbitrary or summary executions in the world,

Having considered the note by the Secretary-General on arbitrary and summary executions,¹²²

Guided by the desire to continue to contribute to the strengthening of the international instruments relating to the prevention of arbitrary or summary executions,

1. Takes note of the note by the Secretary-General on arbitrary and summary executions;

2. Again strongly condemns and deplores the brutal practice of arbitrary or summary executions in various parts of the world;

3. Approves the safeguards guaranteeing protection of the rights of those facing the death penalty, recommended by the Committee on Crime Prevention and Control and annexed to the present resolution, on the understanding that they shall not be invoked to delay or to prevent the abolition of capital punishment;

4. Invites the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the safeguards with a view to establishing an implementation mechanism, within

the framework of the item of its provisional agenda¹²³ entitled "Formulation and application of United Nations standards and norms in criminal justice".

*21st plenary meeting
25 May 1984*

ANNEX

Safeguards guaranteeing protection of the rights of those facing the death penalty

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights,¹²⁴ including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

1984/51. Technical co-operation in crime prevention and criminal justice

The Economic and Social Council,

Recalling General Assembly resolution 36/21 of 9 November 1981, in which the Assembly urged the Department of Technical Co-operation for Development of the United Nations Secretariat and the United Nations Development Programme to increase their level of support to programmes of technical assistance in the field of crime prevention and criminal justice, and to encourage technical co-operation among developing countries,

Recalling also General Assembly resolution 35/171 of 15 December 1980, in which the Assembly endorsed

¹²⁰ General Assembly resolution 2200 A (XXI), annex.

¹²¹ E/CN.4/1983/16 and Add.1 and Corr.1; E/CN.4/1984/29.

¹²² E/AC.57/1984/16.

¹²³ See Council resolution 1982/29, para. 1.

¹²⁴ General Assembly resolution 2200 A (XXI), annex.

the Caracas Declaration annexed thereto, wherein it was stressed that appropriate measures should be taken to strengthen, as necessary, the activities of the competent United Nations organs concerned with crime prevention and the treatment of offenders, especially activities at the regional and subregional levels,

Recalling further Economic and Social Council resolution 1979/20 of 9 May 1979, in which the Council took note, *inter alia*, of the growing number of countries that expressed a need for interregional and technical advisory services capable of assisting Governments in planning and implementing their crime prevention policies, and Council resolution 1979/21 of 9 May 1979,

Convinced of the crucial importance of international co-operation in crime prevention and criminal justice, both among developing countries and between developed and developing countries,

Conscious of the financial and other difficulties encountered by many countries in their efforts to introduce efficient and humane crime prevention policies,

Recognizing the vital role performed by the United Nations regional training and research institutes in effectively supporting various forms and modalities of technical co-operation despite serious financial and budgetary constraints,

Recognizing also the important role of the United Nations Social Defence Research Institute in United Nations efforts to strengthen research in an inter-regional context,

Aware that the existing interregional and regional institutes are heavily dependent for financial support on the host countries,

Noting that the post of Interregional Adviser in the area of crime prevention and criminal justice was re-established in 1981,

Aware that, since the appointment of an Interregional Adviser in July 1982, Governments of developing countries have requested his advisory services on fifty-six occasions,

1. *Takes note* of the recommendations concerning regional and international co-operation in crime prevention and criminal justice contained in the resolutions adopted by the Asia and Pacific,¹²⁵ Latin American,¹²⁶ African¹²⁷ and Western Asia¹²⁸ Regional Preparatory Meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

2. *Notes also* that the African Regional Preparatory Meeting, in its resolution on subregional, regional and interregional co-operation in crime prevention and criminal justice,¹²⁷ viewed with great concern the delay in the establishment of an African regional

institute on the prevention of crime and the treatment of offenders;

3. *Emphasizes* the usefulness of regional co-operation as fostered by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations;

4. *Urges* the Secretary-General and all the organizations and agencies involved in the establishment of the institute for the African region to take steps to ensure its prompt creation, if possible before the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and also appeals to Governments in that region to co-operate fully and act expeditiously in this respect;

5. *Recommends* the regional commissions and the regional institutes to increase their co-operation in undertaking joint activities;

6. *Requests* the organs, organizations and bodies of the United Nations to strengthen appropriate arrangements for the support of technical co-operation in crime prevention and criminal justice between developed and developing countries and also among developing countries, in the spirit of the Buenos Aires Plan of Action for Promoting and Implementing Technical Co-operation among Developing Countries¹²⁹ and General Assembly resolutions 35/171 and 36/21 and Economic and Social Council resolutions 1979/20 and 1979/21;

7. *Urges* the Secretary-General to ensure increased support for the critically needed interregional advisory services in the field of crime prevention and criminal justice, and to provide additional interregional and regional advisers as quickly as budgetary resources will permit, especially to serve the needs of those regions without regional institutes;

8. *Also urges* the Secretary-General to find appropriate means to strengthen the financial capacity of the existing interregional and regional institutes;

9. *Calls upon* Member States in each region, in considering crime prevention and criminal justice in the context of development, to encourage the exchange of data, information and experiences, to engage in joint activities for training and research, to assist in demonstration projects of a bilateral and multilateral nature, to enter into agreements on the provision of human, financial and material resources in support of regional and subregional seminars involving the various modalities of technical co-operation, and to encourage the involvement in such efforts of scientific and professional non-governmental organizations active in the field of crime prevention and criminal justice.

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¹²⁵ A/CONF.121/RPM/2 and Corr.1, sect. II.

¹²⁶ A/CONF.121/RPM/3, annex III.

¹²⁷ A/CONF.121/RPM/4, annex III.

¹²⁸ A/CONF.121/RPM/5, sect. II.

¹²⁹ *Report of the United Nations Conference on Technical Co-operation among Developing Countries, Buenos Aires, 30 August-12 September 1978* (United Nations publication, Sales No. E.78.II.A.11 and Corrigendum), chap. I.