

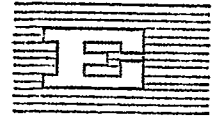
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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Thirty-seventh session
Agenda item 8 (a)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

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

Written statement submitted by Amnesty International,
a non-governmental organization in consultative
status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

Torture is a fundamental violation of human rights, condemned by the United Nations General Assembly as an offence to human dignity and prohibited under international law. Yet torture persists, daily and across the globe, as is evidenced for example by the synopsis of material received from non-governmental organizations under the present agenda item.

When accused of torture, Governments often point out that acts of torture are strictly prohibited under their country's constitution or penal code. Yet the continuing occurrence of torture demonstrates that such legislative prohibition is not sufficient to eradicate the practice.

The Sub-Commission has long recognized this fact. In 1978 it adopted a Draft Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (now pending before the General Assembly). The draft consists of a compilation of safeguards against arbitrary arrest and detention, respect for which would, in Amnesty International's experience, significantly reduce the risk of torture. It provides, for example, that an arrested person has the right to notify his family of his arrest, has the right to legal assistance as soon as possible after arrest, and has the right to challenge the lawfulness of the arrest before a court.

Taking into account the Draft Body of Principles and other relevant United Nations instruments, Amnesty International has elaborated the following 12-Point Programme for the Prevention of Torture. As part of Amnesty International's current campaign for the abolition of torture, the programme seeks to identify specific steps Governments can take to reduce the risk of torture on their territory. One of the most important of these is to ensure that detainees are not kept in total incommunicado.

Amnesty International calls on all Governments to implement this programme. It invites concerned individuals and organizations to join in promoting the programme. It believes that the extent to which a Government has implemented the programme can serve as a yardstick for its true commitment to abolish torture.

AMNESTY INTERNATIONAL

TWELVE-POINT PROGRAMME FOR THE PREVENTION OF TORTURE

1. Official condemnation of torture

The highest authorities of every country should demonstrate their total opposition to torture. They should make clear to all law-enforcement personnel that torture will not be tolerated under any circumstances.

2. Limits on incommunicado detention

Torture often takes place while the victims are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. Governments should adopt safeguards to ensure that incommunicado detention does not become an opportunity for torture. It is vital that all prisoners be brought before a judicial authority promptly after being taken into custody and that relatives, lawyers and doctors have prompt and regular access to them.

3. No secret detention

In some countries torture takes place in secret centres, often after the victims are made to "disappear". Governments should ensure that prisoners are held in publicly recognized places, and that accurate information about their whereabouts is made available to relatives and lawyers.

4. Safeguards during interrogation and custody

Governments should keep procedures for detention and interrogation under regular review. All prisoners should be promptly told of their rights, including the right to lodge complaints about their treatment. There should be regular independent visits of inspection to places of detention. An important safeguard against torture would be the separation of authorities responsible for detention from those in charge of interrogation.

5. Independent investigation of reports of torture

Governments should ensure that all complaints and reports of torture are impartially and effectively investigated. The methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation.

6. No use of statements extracted under torture

Governments should ensure that confessions or other evidence obtained through torture may never be invoked in legal proceedings.

7. Prohibition of torture in law

Governments should ensure that acts of torture are punishable offences under the criminal law. In accordance with international law, the prohibition of torture must not be suspended under any circumstances, including states of war or other public emergency.

8. Prosecution of alleged torturers

Those responsible for torture should be brought to justice. This principle should apply wherever they happen to be, wherever the crime was committed and whatever the nationality of the perpetrators or victims. There should be no "safe haven" for torturers.

9. Training procedures

It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act. They should be instructed that they are obliged to refuse to obey any order to torture.

10. Compensation and rehabilitation

Victims of torture and their dependants should be entitled to obtain financial compensation. Victims should be provided with appropriate medical care or rehabilitation.

11. International response

Governments should use all available channels to intercede with Governments accused of torture. Intergovernmental mechanisms should be established and used to investigate reports of torture urgently and to take effective action against it. Governments should ensure that military, security or police transfers or training do not facilitate the practice of torture.

12. Ratification of international instruments

All Governments should ratify international instruments containing safeguards and remedies against torture, including the International Covenant on Civil and Political Rights and its Optional Protocol which provides for individual complaints.