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**Human rights questions, including alternative approaches
for improving the effective enjoyment of human rights
and fundamental freedoms**

Argentina: draft resolution

Right to the truth

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 12 August 1949 and the Protocols Additional thereto of 1977, and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action,

Recalling article 32 of Additional Protocol I to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts, which recognizes the right of families to know the fate of their relatives, and article 33 of Additional Protocol I, which provides that the parties to an armed conflict shall search for the persons who have been reported missing, as soon as circumstances permit,

Recalling also resolution [60/147](#) of 16 December 2005, in which the General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

Recognizing the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights,

Taking into account Commission on Human Rights resolution 2005/66 of 20 April 2005, Human Rights Council decision 2/105 of 27 November 2006 and Human Rights Council resolutions 9/11 of 18 September 2008, 12/12 of 1 October 2009 and 21/7 of 10 October 2012 on the right to the truth,

Welcoming the creation of the mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence by the



Human Rights Council by its resolution 18/7 of 29 September 2011, and the appointment of a mandate holder by the Council at its nineteenth session,

Taking into account Human Rights Council resolutions 10/26 of 27 March 2009 and 15/5 of 29 September 2010 on forensic genetics and human rights, in which the Council recognized the importance of the utilization of forensic genetics to deal with the issue of impunity within the framework of investigations relating to gross human rights violations and serious violations of international humanitarian law,

Recalling its resolution 65/196 of 21 December 2010 and Human Rights Council resolution 14/7 of 17 June 2010, in which the Assembly and the Council, respectively, proclaimed the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims,

Recalling also the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in its resolution 61/177 of 20 December 2006, in particular article 24 (2) thereof, which sets out the right of victims to know the truth regarding the circumstances of enforced disappearance, the progress and the results of the investigation and the fate of the disappeared person, article 24 (3), which sets forth State party obligations to take appropriate measures in this regard, and the preamble, which reaffirms the right to freedom to seek, receive and impart information to that end, and welcoming the entry into force of the Convention on 23 December 2010,

Noting that the Human Rights Committee and the Working Group on Enforced or Involuntary Disappearances have recognized the right of the victims of gross violations of human rights and their relatives to the truth about the events that have taken place, including the identification of the perpetrators of the acts that gave rise to such violations,

Recalling the set of principles for the protection and promotion of human rights through action to combat impunity,¹ and taking note with appreciation of the updated version of those principles,²

Stressing that adequate steps should also be taken to identify victims in situations that do not amount to armed conflict, especially in cases of massive or systematic violations of human rights,

Convinced that States should preserve archives and other evidence concerning gross violations of human rights and serious violations of international humanitarian law to facilitate knowledge of such violations, investigation of allegations and the provision of victims with access to an effective remedy in accordance with international law,

Recalling that a specific right to the truth may be characterized differently in some legal systems as the right to know or the right to be informed or freedom of information,

Acknowledging, in cases of gross violations of human rights and serious violations of international humanitarian law, the need to study the interrelationships

¹ E/CN.4/Sub.2/1997/20/Rev.1, annex II.

² E/CN.4/2005/102/Add.1

among the right to the truth and the right to access to justice, the right to obtain effective remedy and reparation, and other relevant human rights,

Emphasizing that the public and individuals are entitled to have access, to the fullest extent practicable, to information regarding the actions and decision-making processes of their Government, within the framework of each State's domestic legal system,

1. *Recognizes* the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights;

2. *Welcomes* the establishment in several States of specific judicial mechanisms and non-judicial mechanisms, such as truth and reconciliation commissions, that complement the justice system, to investigate violations of human rights and violations of international humanitarian law, and appreciates the elaboration and publication of the reports and decisions of these bodies;

3. *Encourages* the States concerned to disseminate, implement and monitor implementation of the recommendations of non-judicial mechanisms, such as truth and reconciliation commissions, and to provide information regarding compliance with the decisions of judicial mechanisms;

4. *Encourages* other States to consider establishing specific judicial mechanisms and, where appropriate, truth and reconciliation commissions to complement the justice system, to investigate and address gross violations of human rights and serious violations of international humanitarian law;

5. *Encourages* States and international organizations to provide requesting States with necessary and appropriate assistance regarding the right to the truth by means of, among other actions, technical cooperation and the exchange of information concerning administrative, legislative and judicial and non-judicial measures, as well as experiences and best practices that have as a purpose the protection, promotion and implementation of this right, including practices regarding the protection of witnesses and the preservation and management of archives;

6. *Urges* all States that have not done so to consider signing, ratifying or acceding to the International Convention for the Protection of All Persons from Enforced Disappearance;

7. *Calls upon* States to work in cooperation with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence in accordance with his mandate, including by extending invitations to the Special Rapporteur;

8. *Encourages* States that have not yet done so to establish a national archival policy that ensures that all archives pertaining to human rights are preserved and protected, and to enact legislation that declares that the documentary heritage of the nation is to be retained and preserved, and creates the framework for managing State records from their creation to their destruction or preservation;

9. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue inviting, from within existing resources, Member States, United Nations organs, intergovernmental organizations, national human rights

institutions and non-governmental organizations to provide information on good practices in the establishment, preservation and provision of access to national archives on human rights, and to make the information received publicly available in an online database;

10. *Invites* special procedures and other mechanisms of the Human Rights Council, in the framework of their mandates, to take into account, as appropriate, the issue of the right to the truth;

11. *Requests* the Secretary-General to develop, within existing resources, jointly with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, a cross-regional event in order to exchange experiences and good practices on the subject right to the truth.
