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THIRD COMMITTEE
Agenda item 12

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

The Right of Amparo, Habeas Corpus or other
legal remedies to the same effectAustralia, the Netherlands, Sweden, United Kingdom of Great Britain
and Northern Ireland and United States of America: draft resolutionThe General Assembly,

Bearing in mind the provisions of the Universal Declaration of Human Rights, and Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights,

Mindful, in particular, of article 9, paragraph 4, of the said Covenant which stipulates that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful,

Recalling its resolution 32/121 regarding the protection of the human rights of persons who are detained in respect of offences which they committed, or are suspected of having committed, by reason of their political opinions or convictions,

Recalling also its resolutions 33/169 regarding persons arrested or detained for trade union activities and 33/173 on disappeared persons,

Noting that this year marks the three hundredth anniversary of the Act which in 1679 gave statutory force to the remedy of habeas corpus,

* reissued for technical reasons.

Recalling that on 15-28 August 1961 a United Nations regional "seminar on Amparo, Habeas Corpus and other similar remedies" was held in Mexico City, Mexico under the advisory services programme,

1. Expresses its conviction that the availability of amparo, habeas corpus, or other legal remedies to the same effect, is of fundamental importance for:
 - (a) protecting persons against arbitrary arrest and detention,
 - (b) effecting the release of persons who are detained by reason of their political opinions or convictions, including in pursuance of trade union activities, and for
 - (c) clarifying the whereabouts and fate of missing and disappeared persons,
2. Considers that the use of these remedies may also forestall opportunities for persons exercising power over detainees to engage in torture or other cruel, inhuman or degrading treatment or punishment,
3. Calls upon all Governments to guarantee to persons within their jurisdiction the full enjoyment of the right of amparo, habeas corpus, or other legal remedies to the same effect, as may be applicable in their legal system,
4. Decides that in order to extend the global understanding and larger applications of institutions such as amparo and habeas corpus, or other legal remedies to the same effect, a worldwide seminar on the matter would be timely and useful,
5. Decides further to consider this question again at its thirty-fifth session.
