



# General Assembly

Distr.: Limited  
24 September 2019

Original: English

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## Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Albania,\* Argentina, Armenia,\* Australia, Austria, Belgium,\* Bulgaria, Chile,  
Croatia, Cyprus,\* Czechia, Denmark, Finland,\* France,\* Germany,\* Greece,\*  
Iceland, Ireland,\* Italy, Latvia,\* Liechtenstein,\* Lithuania,\* Luxembourg,\*  
Montenegro,\* Morocco,\* Netherlands,\* Norway,\* Portugal,\* Romania,\* Slovakia,  
Slovenia,\* Spain, Sweden,\* Switzerland,\* Tunisia and Ukraine: draft resolution**

### 42/... Human rights and transitional justice

*The Human Rights Council,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, other relevant international human rights law and international humanitarian law instruments and the Vienna Declaration and Programme of Action,

*Recalling* Commission on Human Rights resolutions 2005/70 of 20 April 2005, on human rights and transitional justice, 2005/81 of 21 April 2005, on impunity, and 2005/66 of 20 April 2005, on the right to the truth, Human Rights Council resolutions 9/10 of 24 September 2008, 12/11 of 1 October 2009, 21/15 of 27 September 2012 and 33/19 of 30 September 2016, on human rights and transitional justice, 9/11 of 18 September 2008, 12/12 of 1 October 2009 and 21/7 of 27 September 2012, on the right to the truth, 10/26 of 27 March 2009 and 15/5 of 29 September 2010, on forensic genetics and human rights, Council decisions 2/105 of 27 November 2006, on the right to the truth, and 4/102 of 23 March 2007, on transitional justice, General Assembly resolution 68/165 of 18 December 2013, on the right to the truth, as well as Council resolutions 18/7 of 29 September 2011, 27/3 of 25 September 2014 and 36/7 of 28 September 2017, on the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,

*Recalling also* General Assembly resolution 60/147 of 16 December 2005, in which the 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,

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\* State not a member of the Human Rights Council.



*Recalling further* the set of principles for the protection and promotion of human rights through action to combat impunity,<sup>1</sup> and the updated version of those principles,<sup>2</sup>

*Recalling* the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies<sup>3</sup> and his follow-up report on the same topic,<sup>4</sup> including the relevant recommendations contained therein, and his reports issued in 2006,<sup>5</sup> 2012,<sup>6</sup> 2013<sup>7</sup> and 2014<sup>8</sup> outlining a programme of action to enhance the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations,

*Recalling also* the guidance note of the Secretary-General on the United Nations approach to transitional justice of 19 April 2010, and noting that it is currently being revised to address the contemporary challenges of transitional justice,

*Acknowledging* General Assembly resolution 70/1 of 25 September 2015 entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, including its goals and targets, inter alia Goal 16, on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels, and recognizing that transitional justice can contribute to this goal, inter alia through its objectives of combating impunity, granting access to justice and transforming conflict,

*Recalling* General Assembly resolution 70/262 of 27 April 2016 on the review of the United Nations peacebuilding architecture, and Security Council resolution 2282 (2016) of 27 April 2016, in which the Assembly and the Council recognize that development, peace and security, and human rights are interlinked and mutually reinforcing and, inter alia, stress that a comprehensive approach to transitional justice, including promotion of healing and reconciliation, a professional, accountable and effective security sector, including through its reform, and inclusive and effective demobilization, disarmament and reintegration programmes, including the transition from demobilization and disarmament to reintegration, are critical to the consolidation of peace and stability, promoting poverty reduction, the rule of law, access to justice and good governance, further extending legitimate State authority, and preventing countries from lapsing or relapsing into conflict,

*Welcoming* the report of the Secretary-General on peacebuilding and sustaining peace<sup>9</sup> describing the restructuring of the peace and security pillar of the United Nations, management reform and the reinvigorated resident coordinators system,

*Taking note* of the United Nations-World Bank group study *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* of 13 April 2018 and of such initiatives as the Pathfinders for Peaceful, Just and Inclusive Societies,

*Affirming* that impunity for gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, encourages their recurrence and is a fundamental obstacle to sustainable peace at the national level, and also to the furtherance of cooperation among peoples and the promotion of international peace and security,

*Acknowledging* that the fight against impunity and the implementation of transitional justice processes, including the promotion of truth, justice, reparation and guarantees of non-recurrence, can prevent the recurrence of past atrocities or similar violations and contribute to sustainable peace and development,

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

<sup>2</sup> E/CN.4/2005/102/Add.1.

<sup>3</sup> S/2004/616.

<sup>4</sup> S/2011/634.

<sup>5</sup> A/61/636-S/2006/980 and Corr.1.

<sup>6</sup> A/66/749.

<sup>7</sup> S/2013/341.

<sup>8</sup> A/68/213/Add.1 and A/69/181.

<sup>9</sup> A/72/707-S/2018/43.

*Underlining* the fact that, when designing and implementing strategies, policies and measures to address gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, the specific context of each situation must be taken into account with a view to preventing the recurrence of future violations and to ensure social cohesion, nation-building, ownership and inclusiveness at the national and local levels with a view to promoting reconciliation, sustainable peace and development,

*Emphasizing* the importance of a comprehensive transitional justice approach incorporating the full range of judicial and non-judicial measures, including, among others, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, memorialization initiatives, and processes to achieve shared narratives or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law and international humanitarian law,

*Recognizing* the importance of assisting States that have undergone past atrocities, upon their request and in cooperation with them, to devise national comprehensive transitional justice strategies with a view to addressing the needs of victims and their right to an effective remedy, to preventing the recurrence of past atrocities or similar violations, to avoiding relapsing into conflict or other forms of violence and to ensuring sustainable peace and reconciliation, acknowledging that the implementation of such a strategy can contribute to both peacebuilding and development efforts, and encouraging the international community to support such processes in a more sustainable manner,

*Welcoming* the activities of the United Nations, including through its field presences, in assisting States to design, establish and implement transitional justice mechanisms and promote the rule of law, and encouraging further efforts to ensure that a gender perspective and an approach that is victim-centred and addresses the root causes are fully integrated into all of these activities,

*Welcoming* the role of the Office of the United Nations High Commissioner for Human Rights in relation to transitional justice and human rights, including its conceptual and analytical work, and the increased efforts of the United Nations system for joint planning and implementation across the pillars of the United Nations,

*Welcoming also* the role of the Peacebuilding Commission and its consistent efforts, in cooperation with national and transitional Governments and in consultation with relevant United Nations entities, to incorporate human rights when advising on and supporting country-specific peacebuilding strategies for post-conflict situations in cases under consideration, where applicable,

*Welcoming further* the investment of the United Nations Peacebuilding Fund in projects addressing critical gaps in sustaining peace,

*Recognizing* the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and international humanitarian law and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter,

*Recognizing also* the importance of documenting gross human rights violations and abuses and serious violations of international humanitarian law for the purpose of accountability, the fight against impunity and as a contribution to transitional justice processes, and welcoming the efforts of the Human Rights Council and its mechanisms in this regard,

*Taking note with appreciation* of the work and reports of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,<sup>10</sup>

<sup>10</sup> A/HRC/39/53, A/HRC/42/45, A/72/523 and A/73/336.

*Reaffirming* the important role of women in peacebuilding, and noting the substantial link between women's full and meaningful involvement in efforts to prevent, resolve and rebuild from conflict and those efforts' effectiveness and long-term sustainability, and stressing in this regard the importance of women's equal participation in all these efforts and the need to increase women's role in decision-making with regard to conflict prevention and resolution and peacebuilding,

*Recognizing* the fundamental role of civil society, through its engagement, advocacy and participation in decision-making processes, in preventing gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity from being committed, or in addressing their legacy by promoting the right to the truth, justice, reparation and guarantees of non-recurrence,

1. *Recognizes* that States have the primary responsibility for the promotion and protection of all human rights, including the responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity;

2. *Also recognizes* that national efforts to sustain peace, with the support of the international community as applicable, are necessary not only during conflict and in post-conflict situations but also long before conflict breaks out, through the prevention of conflict and addressing its root causes and by ensuring that the respect of human rights and efforts for sustainable development can contribute to lasting peace;

3. *Encourages* States to include best practices and lessons learned from transitional justice processes in their efforts to realize Sustainable Development Goal 16 and, where appropriate, to fund transitional justice measures as part of their development efforts;

4. *Condemns* impunity for gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing, crimes against humanity, emphasizes the responsibility of States to comply with their obligations under international law to end impunity, and urges States to seek sustainable peace, justice, truth and reconciliation, through comprehensive transitional justice strategies, in particular to thoroughly investigate and prosecute those responsible for such violations and crimes, in order to avoid their recurrence and promote reconciliation at the national level;

5. *Calls upon* States, where relevant, to develop and implement comprehensive transitional justice strategies and to establish judicial and non-judicial mechanisms in order to address past atrocities, the needs of victims and their right to an effective remedy, and to prevent their recurrence;

6. *Encourages* States and regional and international organizations to acknowledge and support the important role of civil society in addressing gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and, where relevant, in the promotion, implementation and monitoring of comprehensive transitional justice approaches and efforts;

7. *Reaffirms* the important role of women in the prevention, mediation and resolution of conflicts, in peacebuilding and in development efforts, and stresses the importance of their equal participation and full involvement in the design, establishment and implementation of comprehensive transitional justice strategies;

8. *Emphasizes* the need to provide gender-sensitive human rights training in the context of transitional justice to all relevant national actors, including police, military, intelligence and security services, prosecution staff and members of the judiciary, in dealing with victims of human rights violations, particularly women and girls, in order to ensure gender sensitivity in the restoration of the rule of law and transitional justice processes;

9. *Requests* the Office of the United Nations High Commissioner for Human Rights to examine in a report how addressing a legacy of gross violations and abuses of

human rights and serious violations of international humanitarian law through transitional justice measures can contribute to sustaining peace and the realization of Sustainable Development Goal 16, and to present the report to the Human Rights Council at its forty-sixth session;

10. *Also requests* the Office of the High Commissioner, in preparing the above-mentioned report, to consult with States, relevant United Nations mandate holders, other relevant entities of the United Nations Secretariat, relevant United Nations agencies, funds and programmes, intergovernmental organizations, national human rights institutions, non-governmental organizations and other relevant stakeholders, including practitioners;

11. *Decides* to remain seized of the matter.

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