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HUMAN RIGHTS COUNCIL
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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Andorra*, Armenia*, Austria*, Belgium*, Chile*, Cuba, Cyprus*,
Czech Republic*, Denmark*, Estonia*, Finland*, France, Germany,
Greece*, Guatemala, Hungary*, Ireland*, Italy, Latvia*,
Liechtenstein*, Luxembourg*, Monaco*, Netherlands, Norway*,
Peru, Portugal*, Romania, San Marino*, Slovakia*, Slovenia,
Spain*, Sweden*, Switzerland, Timor-Leste*, Ukraine and
United Kingdom of Great Britain and Northern Ireland:
draft resolution**

6/... Arbitrary detention

The Human Rights Council,

Reaffirming articles 3, 9, 10 and 29, as well as other relevant provisions, of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11, and 14 to 22 of the International Covenant on Civil and Political Rights,

* Non-member States of the Human Rights Council.

Recalling also Commission on Human Rights resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997, as well as resolution 2005/28 of 19 April 2005,

Recalling further General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council”,

Recalling its resolutions 5/1 and 5/2 of 18 June 2007,

1. *Decides* to extend the mandate of the Working Group on Arbitrary Detention for a further period of three years, in accordance with resolutions 1991/42 and 1997/50 of the Commission on Human Rights:

(a) To investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned;

(b) To seek and receive information from Governments and intergovernmental and non-governmental organizations, and receive information from the individuals concerned, their families or their representatives;

(c) To act on information submitted to its attention regarding alleged cases of arbitrary detention by sending urgent appeals and communications to concerned Governments to clarify and to bring to their attention these cases;

(d) To conduct field missions upon the invitation of Government, in order to understand better the situations prevailing in countries, as well as the underlying reasons for instances of arbitrary deprivation of liberty;

(e) To formulate deliberations on matters of a general nature involving a position of principle in order to develop a consistent set of precedents and assist States, for purposes of prevention, to guard against the practice of arbitrary deprivation of liberty;

(f) To present an annual report to the Human Rights Council presenting its activities, findings, conclusions and recommendations;

2. *Encourages* the Working Group, in fulfilling its mandate:

(a) To work in cooperation and dialogue with all those concerned by the cases submitted to it, and in particular with States that provide information which should be given due consideration;

(b) To work in coordination with other mechanisms of the Human Rights Council, with other competent United Nations bodies and with treaty bodies, bearing in mind the role of the Office of the United Nations High Commissioner for Human Rights in such coordination, and to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field missions;

(c) To carry out its task with discretion, objectivity and independence;

3. *Takes note* of the latest reports of the Working Group (E/CN.4/2006/7 and A/HRC/4/40), including the recommendations contained therein;

4. *Requests* the States concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

5. *Encourages* all States:

(a) To give due consideration of the recommendations of the Working Group;

(b) To take appropriate measures in order to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the applicable international legal instruments;

(c) To respect and promote the right of anyone who is arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release;

(d) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(e) To ensure that the right deferred to in subparagraph (d) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(f) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;

6. *Also encourages* all States concerned to ensure that any measures taken to combat terrorism comply with their obligations that ensure protection against arbitrary detention, bearing in mind relevant recommendations of the Working Group;

7. *Further encourages* all States to cooperate with the Working Group, and to give serious consideration to its requests for visits, so that it may carry out its mandate even more effectively;

8. *Notes with concern* that a persistent proportion of urgent appeals of the Working Group has been left unanswered and urges the States concerned to give the necessary attention to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

9. *Expresses its profound thanks* to the States that have extended their cooperation to the Working Group and responded to its request for information, and invites all States concerned to demonstrate the same spirit of cooperation;

10. *Takes note with satisfaction* of the fact that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

11. *Requests* the Secretary-General to provide all necessary assistance to the Working Group, particularly with regard to the staffing and resources needed for the effective fulfilment of its mandate, especially in respect of field missions;

12. *Decides* to continue consideration of the question in conformity with its programme of work.
