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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

Argentina, Austria*, Azerbaijan, Belgium*, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Chile, Colombia*, Croatia*, Cuba, Cyprus*, Denmark*, Dominican Republic*, Ecuador*, Egypt, France, Greece*, Guatemala*, Guinea*, Haiti*, Hungary*, Ireland*, Israel*, Italy, Latvia*, Luxembourg*, Peru*, Portugal*, Romania*, Slovenia, South Africa, Spain*, Switzerland, the former Yugoslav Republic of Macedonia*, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of)*: draft resolution

9/... Right to the truth

The Human Rights Council,

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,

* Non-member State of the Human Rights Council.

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

Recalling article 32 of Additional Protocol I to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, which recognizes the right of families to know the fate of their relatives,

Recalling also that article 33 of Additional Protocol I provides that the parties to an armed conflict shall search for the persons who have been reported missing, as soon as circumstances permit,

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

Taking into account resolution 2005/66 of the Commission on Human Rights and Council decision 2/105 on the right to the truth,

Acknowledging the reports of the Office of the United Nations High Commissioner for Human Rights on the right to the truth (E/CN.4/2006/91, A/HRC/5/7) and its significant conclusions related to the right to know the truth about gross violations of human rights and serious violations of international humanitarian law,

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

Recalling the set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II) and taking note with appreciation of the updated version of those principles (E/CN.4/2005/102/Add.1),

Noting that the Human Rights Committee¹ and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62) have recognized the right of the victims of gross violations of human rights and the right of their relatives to the truth about the events that have taken place, including the identification of the perpetrators of the facts that gave rise to such violations,

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

Stressing the importance for the international community to endeavour to recognize the right of victims of gross violations of human rights and serious violations of international humanitarian law, and their families and society as a whole, to know the truth regarding such violations, to the fullest extent practicable, in particular, the identity of the perpetrators, the causes and facts of such violations, and the circumstances under which they occurred,

Stressing also that it is important for States to provide appropriate and effective mechanisms for society as a whole and, in particular, for relatives of the victims, to know the truth regarding gross violations of human rights and serious violations of international humanitarian 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,

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 *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40).*

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, to investigate allegations and to provide victims with access to an effective remedy in accordance with international law,

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 other 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 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 to provide requesting States the necessary and appropriate assistance regarding the right to the truth by means of, among other actions, technical cooperation and 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;

6. *Encourages* 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. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare a comprehensive study, to be presented to the Council at its twelfth session, on best practices for the effective implementation of this right, including, in particular, practices relating to archives and records concerning gross violations of human rights with a view to create guidelines on protecting archives and records concerning gross human rights violations, and programmes for the protection of witnesses and other persons involved in trials connected with such violations;

8. *Also requests* the Office of the High Commissioner to prepare a report, to be presented to the Council at its fifteenth session, on the use of forensic experts in case of gross violations of human rights with a view to identifying trends and best practices in this regard;

9. *Decides* to convene a panel to discuss issues related to the present resolution at its thirteenth session;

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

11. *Decides* to consider this matter at its twelfth session under the same agenda item or at the corresponding session in conformity with its annual programme of work.
