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COMMISSION ON HUMAN RIGHTS
Fifty-first session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO
ANY FORM OF DETENTION OR IMPRISONMENT

Argentina*, Armenia*, Australia, Austria, Belgium*, Cameroon,
Canada, Costa Rica*, Czech Republic, Denmark*, Finland, France,
Germany, Guinea-Bissau, Hungary, Ireland*, Italy, Jordan*,
Latvia*, Luxembourg*, Madagascar*, Netherlands, Norway*, Poland,
Portugal*, Russian Federation, Senegal*, Slovakia*, Slovenia*,
Sweden*, Switzerland*, United Kingdom of Great Britain and
Northern Ireland and United States of America: draft resolution

1995/... Independence and impartiality of the judiciary, jurors
and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular paragraph 27 of part I and paragraphs 88, 90 and 95 of part II,

Recalling its resolution 1994/41 of 4 March 1994 in which it requested the Chairman of the Commission to appoint for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers,

Recalling also General Assembly resolution 40/32 of 29 November 1985 in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, and resolution 40/146 of 13 December 1985,

Recalling further General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

Bearing in mind the principles contained in the draft declaration prepared by Mr. L.M. Singhvi (E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1), which the Commission, in its resolution 1989/32 of 6 March 1989, invited Governments to take into account in implementing the Basic Principles on the Independence of the Judiciary,

Recalling the appointment by the Chairman of the Commission on Human Rights of Mr. Param Kumaraswamy as Special Rapporteur,

Taking note of the first report submitted by the Special Rapporteur on the implementation of his mandate and the recommendation addressed to the Commission on Human Rights contained therein (E/CN.4/1995/39, para. 105),

Noting with concern the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

1. Welcomes the first report submitted by the Special Rapporteur on the activities relating to his mandate entitled "Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers" (E/CN.4/1995/39);

2. Endorses the decision of the Special Rapporteur to use, beginning in 1995, the short title of "Special Rapporteur on the independence of judges and lawyers", and requests the Centre on Human Rights to take note of this in its future communications;

3. Takes note of and welcomes the methods of work the Special Rapporteur intends to follow in the implementation of his task, as outlined in chapter II of his report;

4. Notes with appreciation the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Centre for Human Rights;

5. Invites the Centre for Human Rights to undertake the publication of a "fact sheet" on the independence of judges and lawyers;

6. Endorses the wish of the Special Rapporteur to be kept regularly informed about the programme of advisory services and technical assistance of the Centre for Human Rights so that he will be in a position to implement his mandate by monitoring progress achieved;

7. Requests the Secretary-General, within the limits of the resources of the United Nations, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate;

8. Requests the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its fifty-second session;

9. Decides to consider this question at its fifty-second session.
