



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2002/L.53
16 April 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 11 (a)

**CIVIL AND POLITICAL RIGHTS:
TORTURE AND DETENTION**

Australia*, Austria, Belarus*, Belgium, Brazil, Bulgaria*, Canada, Colombia*, Costa Rica, Croatia, Cyprus*, Czech Republic, Denmark*, Ecuador, Eritrea*, Estonia*, Finland*, France, Georgia*, Germany, Greece*, Guatemala, Hungary*, Iceland*, Ireland*, Italy, Liechtenstein*, Lithuania*, Luxembourg*, Malta*, Mauritius*, Mexico, Monaco*, Netherlands*, New Zealand*, Norway*, Panama*, Peru, Poland, Portugal, Romania*, Slovakia*, Slovenia*, Spain, Sweden, Switzerland*, Turkey*, United Kingdom of Great Britain and Northern Ireland, Yugoslavia*: draft resolution

2002/... Torture and other cruel, inhuman or degrading treatment or punishment

The Commission on Human Rights,

Reaffirming that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment, that such actions constitute a criminal attempt to destroy a fellow human being physically and mentally, which can never be justified under any circumstances by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

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

Recalling that freedom from torture and cruel, inhuman or degrading treatment or punishment is a non-derogable right and that the prohibition of torture is explicitly affirmed in all relevant international instruments, as set out in the second preambular paragraph of Commission resolution 2001/62 of 25 April 2001,

Recalling also the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Appalled at the widespread occurrence of torture and other cruel, inhuman or degrading treatment or punishment,

Recalling all relevant resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights, in particular Commission resolution 2001/62 and Assembly resolution 56/143 of 19 December 2001,

Mindful of the proclamation by the General Assembly, in its resolution 52/149 of 12 December 1997, of 26 June as United Nations International Day in Support of Victims of Torture,

Commending the persistent efforts by non-governmental organizations to combat torture and to alleviate the suffering of victims of torture,

Emphasizing the importance of Governments taking persistent action to prevent and combat torture and commending those Governments which cooperate with non-governmental organizations in this respect,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Condemns in particular* any action or attempt by States or public officials to legalize or authorize torture under any circumstances, including through judicial decisions, and calls upon Governments to eliminate practices of torture;

3. *Urges* all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular Part II, section B.5, relating to freedom from torture, in which it is stated that States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law;

4. *Also urges* Governments to take effective measures to provide redress and to prevent torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations;

5. *Reminds* Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture;

6. *Also reminds* Governments that intimidation and coercion, as described in article 1 of the Convention, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;

7. *Stresses* that under article 4 of the Convention, torture must be made an offence under domestic criminal law and emphasizes that acts of torture are serious violations of international humanitarian law and that the perpetrators are liable to prosecution and punishment;

8. *Stresses in particular* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment should be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have taken place, notes in this respect the Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment - the Istanbul Principles - annexed to Commission resolution 2000/43 and General Assembly resolution 55/89 as a useful tool in efforts to combat torture, and reiterates its request to the Special Rapporteur, in the normal course of his work, to solicit views from Governments and non-governmental organizations;

9. *Stresses* that States must not punish personnel for not obeying orders to commit acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

10. *Also stresses* that national legal systems should ensure that the victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation, and encourages the development of rehabilitation centres for victims of torture;

11. *Urges* Governments to protect medical and other personnel for their role in documenting torture or any other form of cruel, inhuman or degrading treatment or punishment and in treating victims of such acts;

12. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Requests* the Special Rapporteur to continue the study, with a view to its prompt completion, of the situation of trade and production in such equipment, its origin, destination and forms, with a view to finding the best ways to prohibit such trade and production and to combat its proliferation and to report thereon to the Commission at its fifty-ninth session, and calls upon States and non-governmental organizations to provide the information requested by the Special Rapporteur;

14. *Reminds* all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person;

15. *Urges* all States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority and welcomes the ratifications and accessions since the fifty-seventh session of the Commission;

16. *Encourages* States parties to consider limiting the extent of any reservations they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible, to ensure that no reservation is incompatible with the object and purpose of the Convention and to review regularly any reservations made in respect of the provisions of the Convention, with a view to withdrawing them;

17. *Invites* all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention and to avoid making, or consider the possibility of withdrawing, reservations to article 20;

18. *Urges* States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

19. *Also urges* all States parties to comply strictly with their obligations in accordance with article 19 of the Convention, including their reporting obligations, and, in particular, those

States parties whose reports are long overdue to submit their reports forthwith, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

20. *Emphasizes* the obligation of States parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and calls upon the United Nations High Commissioner for Human Rights, in conformity with her mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide, at the request of Governments, advisory services in this regard, as well as technical assistance in the development, production and distribution of appropriate teaching material for this purpose;

21. *Welcomes* the report of the Committee against Torture on its twenty-fifth and twenty-sixth sessions (A/56/44);

22. *Also welcomes* the work of the Committee against Torture and its practice of formulating concluding observations after the consideration of reports and recognizes the importance of the process of individual communications relating to States which have made a declaration under article 22 of the Convention, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture within the jurisdiction of States parties, and urges States parties to take into account such conclusions and recommendations, as well as views on individual communications;

23. *Takes note with appreciation* of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/2002/65) and requests the Secretary-General to continue to submit an annual report to the Commission;

24. *Also takes note with appreciation* of the work of the former and current Special Rapporteurs and notes the recommendations contained in the report of the former Special Rapporteur (E/CN.4/2002/76 and Add.1), as well as the recommendations made in previous years, and encourages the current Special Rapporteur to include among his recommendations proposals for the prevention and investigation of torture, taking into account information received concerning training manuals and activities aimed at facilitating the practice of torture;

25. *Draws the attention* of the Special Rapporteur to those aspects related to his activities set out in paragraphs 3, 7, 9, 27, 28, 31, 32, 36 and 37 of Commission resolution 2001/62, with a view to his reporting to the Commission as appropriate;

26. *Considers it desirable* that the Special Rapporteur continue to exchange views with the relevant human rights mechanisms and bodies, especially the Committee against Torture and the Office of the High Commissioner for Human Rights, in particular with a view to enhancing further their effectiveness and mutual cooperation, while avoiding unnecessary duplication with other special procedures, and that he pursue cooperation with other relevant United Nations programmes, notably that on crime prevention and criminal justice;

27. *Reiterates* the need for the Special Rapporteur to be able to respond effectively, in particular through urgent appeals, to credible and reliable information that comes before him, invites the Special Rapporteur to continue to seek the views and comments of all concerned, in particular Governments, and underlines that the facts forming the basis for the urgent appeals should be clearly set out;

28. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by him and to react appropriately and expeditiously to his urgent appeals;

29. *Urges* those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay;

30. *Calls upon* all Governments to give serious consideration to the Special Rapporteur's requests to visit their countries and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations, so as to enable him to fulfil his mandate even more effectively;

31. *Invites* the Special Rapporteur to present an interim report to the General Assembly at its fifty-seventh session on the overall trends and developments with regard to his mandate and a full report to the Commission at its fifty-ninth session, including as addenda all replies sent by Governments that are received in any of the official languages of the United Nations;

32. *Takes note* of the reports of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/56/181) and E.CN.4/2002/66 and Add.1);

33. *Expresses its gratitude and appreciation* to those Governments, organizations and individuals that have contributed to the Fund and encourages them to continue to do so;

34. *Stresses* the importance of the work of the Board of Trustees of the Fund and appeals to all Governments, organizations and individuals to contribute annually to the Fund and preferably by 1 March before the annual meeting of the Board, if possible with a substantial increase in the contributions in order to take into consideration the ever-increasing requests for assistance, in particular the increasing need for assistance to rehabilitation services for victims of torture and to small projects of humanitarian assistance to victims of torture;

35. *Requests* the Secretary-General to continue to include the Fund, on an annual basis, among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities and to transmit to all Governments the appeals of the Commission for contributions for the Fund;

36. *Calls upon* the Board of Trustees of the Fund to report to the Commission at its fifty-ninth session and present an updated assessment of the global need for international funding of rehabilitation services for victims of torture and in particular of lessons and best practices learned from the Fund's activities, and requests the Secretary-General to continue to keep the Commission informed of the operations of the Fund on an annual basis;

37. *Requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing, as well as the necessary technical facilities, for the United Nations bodies and mechanisms dealing with torture, in order to ensure their effective performance;

38. *Calls upon* all Governments, the United Nations High Commissioner for Human Rights and United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate on 26 June the United Nations International Day in Support of Victims of Torture;

39. *Decides* to continue to consider these questions at its fifty-ninth session, as a matter of priority.

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