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By other resolutions of 13 September on the question of the human rights of detained or imprisoned persons, the Sub-Commission recommended that the Commission request the Economic and Social Council to authorize a study of the situation of detainees and imprisoned persons in and from territories under foreign occupation; asked the Commission to act on a 1976 Sub-Commission recommendation that the Commission request the Council to authorize the Sub-Commission’s Chairman to appoint five members to analyse material received concerning the human rights of detained or imprisoned persons, and carry out the annual review of developments in this field; recommended that the Commission request the Council to authorize its Special Rapporteur, Nicole Questiaux (France), to continue the study on the implications for human rights of recent developments relating to states of siege or emergency; and requested the Secretary-General to prepare and submit to the Sub-Commission at its 1979 session a preliminary study on measures taken and conditions regarded as essential to ensure and secure the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, to the end that there would be no discrimination in the administration of justice.

During its regular 1978 session, the General Assembly adopted a number of resolutions on topics concerning the human rights of detained or imprisoned persons.

By resolution 33/169, adopted on 20 December, the Assembly, recognizing the importance of the International Labour Organisation in promoting trade union rights and protecting trade unionists, and reaffirming the importance of protecting the right to freedom of association as an essential prerequisite for trade union activities, recommended that special attention be paid to violations of that right, such as the arrest, detention or exile of trade unionists. It requested Member States to release those under arrest on account of their trade union activities, to ensure that, pending their release, the fundamental rights of such persons were fully protected, and to take measures to protect the human rights and freedoms of trade union leaders detained or imprisoned because of their struggle against colonialism, aggression and foreign occupation and their struggle for self-determination, independence, the elimination of apartheid and all forms of racial discrimination and racism. (see also p. 716; for text of resolution, refer to INDEX OF RESOLUTIONS AND DECISIONS.)

Convention on torture and other cruel or inhuman treatment

At its session in 1978, the Commission on Human Rights set up an open-ended working group to consider alternative drafts for an international convention against torture and other cruel, inhuman or degrading treatment or punishment, prepared by Sweden and by the International Association of Penal Law. The General Assembly had on 8 December 1977 requested the Commission to draw up such a convention and to report on the matter to its 1978 regular session. The Commission approved a resolution on 7 March by which it took cognizance of the report of the working group and requested the Secretary-General to transmit all the relevant Commission documents concerning the topic to Member Governments and members of the specialized agencies for their comments, and to prepare a

*Bld. p. 718, resolution 33/62.
summary of those comments. The Commission
requested the Secretary-General to transmit its
resolution to the General Assembly, together with
the relevant chapter of the Commission’s report
to the Economic and Social Council, as constitut-
ing the Commission’s progress report.

The Commission also proposed a draft decision
for adoption by the Council, by which the Council
would authorize the holding of a meeting of a
working group, open to all members of the Com-
misson, for one week before the Commission’s
1979 session in order to prepare concrete pro-
posals for the draft convention.

In addition, the Commission decided that the
working group concerned with analysing alterna-
tive approaches and ways and means within the
United Nations system for the promotion and en-
couragement of human rights and fundamental
freedoms (see subchapter below) should combine
this, its principal task, with the work on the draft
convention.

On 5 May 1978, the Economic and Social
Council, on the recommendation of its Second
Committee, adopted, without vote, decision 1978/24,
by which it approved the Commission’s recom-
pensation concerning the pre-session work-
ning group meeting. It also decided to request the
Secretary-General to transmit to the Assembly at
its 1978 regular session the Commission’s resolution
concerning the draft convention, together
with the relevant chapter of the Commission’s re-
port.

In the Second Committee, Argentina had orally
proposed that this last provision be added to the
draft submitted by the Commission. The text of
the amendment was approved by 12 votes to 7,
with 18 abstentions, and the text of the decision
as a whole was approved by the Committee with-
out objection on 27 April. (For text of decision
1978/24, see DOCUMENTARY REFERENCES below.)

In accordance with a General Assembly resolu-
tion of 8 December 1977, the Secretary-General
in 1978 circulated among Member States a ques-
tionnaire soliciting information on steps they had
taken to put into practice the principles of the
Declaration on the Protection of All Persons from
Being Subjected to Torture and Other Cruel, In-
human or Degrading Treatment or Punish-
ment. At its 1978 regular session, the Assembly
had before it a report of the Secretary-General
containing replies to the questionnaire received
from 27 Member States—Australia, the Bahamas,
Barbados, Chile, Denmark, El Salvador, Ethiopia,
Finland, France, the German Democratic Repub-
lic, the Federal Republic of Germany, Greece,
Guatemala, Jordan, Kenya, Kuwait, Luxembourg,
the Netherlands, Norway, Pakistan, Portugal, Qa-
tar, Senegal, Sweden, the United Kingdom, the
Upper Volta and Yugoslavia.

Nine Member States—Belgium, Denmark, Fin-
land, Iceland, Iran, Italy, Luxembourg, Norway
and Sweden—had also made unilateral declara-
tions against torture and other cruel, inhuman or
degrading treatment or punishment in accord-
ance with another Assembly resolution of 8 De-
cember 1977. A second report of the Secretary-
General reproduced the unilateral declarations
received by 1 October 1978.

On 20 December 1978, the Assembly adopted a
resolution on the subject, by which it recalled that
1978 marked the thirtieth anniversary of the
adoption of the Universal Declaration of Human
Rights. The Assembly took note of the progress
report of the Commission on Human Rights on
the drafting of a convention on torture and other
criminal, inhuman or degrading treatment, and wel-
comed decision 1978/24 of the Economic and So-
cial Council regarding the Commission’s pre-
session working group to draft the proposed
convention. It requested the Commission to give
high priority to the matter at its 1979 session.

The Assembly also took note of the Secretary-
General’s reports containing replies to the ques-
tionnaire on implementation of the Declaration
and the texts of the unilateral declarations, and
called for further reports from Member States.

The Assembly adopted resolution 33/178, with-
out vote, on the recommendation of the Third
(Social, Humanitarian and Cultural) Committee.
The sponsors accepted an oral amendment by
Morocco, and the text was approved by consensus
on 8 December. The sponsors were Belgium,
Costa Rica, Greece, India, the Netherlands, Nor-
way, Portugal, Sweden and the United States.
(For text of resolution, see DOCUMENTARY REFER-
ENCES below.)

Protection of human rights in Chile

At its 1978 session, the Commission on Human
Rights again studied reported violations of human
rights in Chile, with particular reference to tor-
ture and other cruel, inhuman or degrading
treatment or punishment. By a resolution
adopted on 5 March, the Commission expressed
profound indignation that the Chilean people
continued to be subjected to constant and flag-
grant violations of human rights and fundamen-
tal freedoms. It viewed with concern the contin-
ued refusal of the Chilean authorities to account
for the large number of persons who had dis-
appeared, demanding that they do so, as well as
new measures taken by Chile to suppress political
opposition. It deplored the destruction of demo-
cratic institutions and constitutional safeguards in

*See Y.U.N., 1975, p. 624, resolution 3452(XXX) of 9 December 1975,
announcing text of Declaration.

**See Y.U.N., 1977, p. 719, resolution 32/64.
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working group of the Commission on Human Rights; a draft body of principles for the protection of all persons under any form of detention or imprisonment, which the Economic and Social Council transmitted to States for their comments; and a draft Code of Medical Ethics, also transmitted for comments following its endorsement by the Executive Board of the World Health Organization (WHO). In addition, the General Assembly adopted a Code of Conduct for Law Enforcement Officials (see p. 771).

The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed a procedure for United Nations consideration of complaints pertaining to the disappearance of persons. It also proposed for future study two topics relating to the administration of justice. The Assembly adopted a resolution on the legal remedies known as amparo in Latin American legal codes and habeas corpus in Anglo-Saxon jurisdiction, calling attention to their importance in ensuring the liberty of persons.

Draft convention on torture and other inhuman treatment

A working group of the Commission on Human Rights, open to all its members, continued work in February and March 1979 on a draft convention on torture and other cruel, inhuman or degrading treatment or punishment. Preparation of the draft convention had been requested by the General Assembly in 1977.26

The work began in a pre-sessional working group which met from 5 to 7 February before the Commission's 1979 session, as authorized by the Economic and Social Council in 1978.26 It continued in a sessional working group which the Commission set up on 13 February and which met between 23 February and 12 March. The Chairman/Rapporteur was Nima Sibai (India).

The working group based its work on a draft submitted by Sweden, which was a revised version of a text that country had submitted to the Commission in 1978. The group approved several articles, including a definition of torture and paragraphs prohibiting the invocation of exceptional circumstances to justify torture and requiring prison officials to be educated regarding the prohibition against torture. It failed to reach agreement on a clause prohibiting States from expelling or extraditing persons to a State where they were in danger of being tortured.

The Commission recommended on 14 March that the Economic and Social Council authorize a meeting of a working group for one week prior to the Commission's 1980 session to complete work on the draft convention. The Council approved this recommendation by resolution 1979/35 of 10 May, adopted without vote, after the Second (Social) Committee had approved it on 4 May by 39 votes to 0, with 6 abstentions. Poland said it had abstained in the vote because it saw no reason to accord special priority to the subject; the Ukrainian SSR and the USSR said the topic could be dealt with during the Commission's session.

Reports by the Secretary-General

The Secretary-General presented to the General Assembly at its regular 1979 session two reports on action taken by Governments to implement the Assembly's 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.27 The reports were follow-ups, requested by the Assembly in 1978,28 to earlier reports on the same subject.

The first report contained replies by 19 Governments to a United Nations questionnaire requesting information on steps they had taken, including legislative and administrative measures, to put into practice the principles of the Declaration. The respondents were Barbados, Belgium, Brazil, Democratic Yemen, Ecuador, the Federal Republic of Germany, Haiti, Hungary, India, Iran, Iraq, Japan, the Libyan Arab Jamahiriya, Mali, Malta, Morocco, Spain, Trinidad and Tobago, and Turkey.

The second report contained the texts of declarations by 12 States—Barbados, Democratic Yemen, India, Japan, Mauritius, the Netherlands, the Philippines, Portugal, Qatar, Senegal, Spain and Yugoslavia—to the effect that they would comply with the Declaration and implement it through legislation and other effective measures. The Assembly had called for such unilateral declarations in 1977, and this was the second in a series of annual reports requested by it at that time.29

Action by the General Assembly

On 17 December 1979, without a vote, the General Assembly adopted resolution 34/167, dealing with the draft convention against torture and implementation of the Declaration on the subject. The Third (Social, Humanitarian and Cultural) Committee recommended this action without a vote on 5 November, by approving a draft resolution sponsored by Costa Rica, Greece, India, Italy, the Netherlands, Sweden and Uganda.

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By this resolution, the Assembly:
(a) took note with satisfaction of the significant progress made by the Commission on Human Rights in drafting a convention on torture, welcomed the decision to have a working group complete work on the draft prior to the Commission's 1980 session, and requested the Commission to continue to give high priority to completing the draft;
(b) called for additional replies to the questionnaire on implementation of the Declaration against torture, and requested the Secretary-General to submit such information to the Commission, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Caracas, Venezuela, 1980); and
(c) invited Member States which had not done so to submit unilateral declarations against torture and other cruel, inhuman or degrading treatment or punishment, and requested the Secretary-General to continue to keep the Assembly informed in annual reports.

In addition to accepting a drafting change suggested by Morocco, the sponsors orally added to their text a phrase to specify that the information to be submitted to the Commission and other bodies was to be received in response to the questionnaire on implementation of the Declaration.

In a related action, the Assembly adopted on 17 December a Code of Conduct for Law Enforcement Officials. According to article 5 of this Code, no law enforcement official could inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor could such official invoke superior orders or exceptional circumstances as a justification of torture or mistreatment. (For details, see p. 771; for page reference to text of resolution 34/169 annexing the Code, refer to INDEX OF RESOLUTIONS AND DECISIONS.)

Draft body of principles to protect detained or imprisoned persons

At the request of the Economic and Social Council, the Secretary-General, by a note verbale of 15 June 1979, transmitted to Governments, for their comments, a draft body of principles for the protection of all persons under any form of detention or imprisonment. The draft, consisting of 35 principles, was adopted in September 1978 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The draft principles called for humane treatment of prisoners and detainees, controlled by a legal authority and applied without personal distinction. They would outlaw torture and other cruel punishment, and require impartial investigation of complaints about ill-treatment and proper recording of interrogations.

A series of procedural safeguards was provided for, including separate authorities for investigation and detention, the right of self-defence, the right to be informed of charges and rights, the proper recording of arrests, the use of interpreters where needed, and notification to the family of the whereabouts of detainees. Detained persons would be entitled to legal assistance, communication with counsel, family visits, educational materials and medical attention. They could not be compelled to testify against themselves. Convicted criminals would be segregated from other detained persons.

Persons under detention would be entitled to seek relief from a judicial authority on grounds of unlawful detention or inhuman treatment. Deaths and disappearances of detained persons would be subject to investigation by proper authorities and claims for compensation on the part of the family. Detained persons would be presumed innocent until proved guilty, and could be kept in detention pending investigation or trial only on the written order of a proper authority. They would be entitled to trial within a reasonable time and to seek provisional release under reasonable conditions.

The Council's decision to have this draft transmitted to Governments was taken by resolution 1979/34, adopted, without vote on 10 May, on the recommendation of the Second Committee, which had similarly approved the resolution on 4 May. The resolution originated in the Commission on Human Rights, which approved the text on 14 March.

The Council requested the Secretary-General to solicit the comments of Governments on the draft body of principles and to report to the General Assembly in 1980 so that the Assembly might consider adopting them. In the Second Committee, Hungary, the Ukrainian SSR and the USSR expressed the view that the comments should go to the Commission before they were considered by the Assembly.

In another provision of resolution 1979/34, the Council authorized the Sub-Commission to request its Special Rapporteur, Nicole Questiaux (France), to continue her study of the implications for human rights of states of siege or emergency. This authorization had been requested by the Sub-Commission in 1978.

The Secretary-General transmitted the text of the draft principles to the Assembly by a note dated 11 September 1979.

the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers in different legal systems. The Sub-Commission asked the Special Rapporteur to give attention to ways whereby the judiciary and the legal profession could contribute to maintaining and safeguarding respect for human rights and fundamental freedoms, and decided to include his study as a separate subject at its 1981 session.

The Economic and Social Council, by resolution 1980/28 of 2 May, authorized the Sub-Commission to entrust a Special Rapporteur with the preparation of a study on the discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice proceedings (for details, see p. 798).

By resolution 35/170 of 15 December, the General Assembly called on all States to consider favourably the use of the Code of Conduct for Law Enforcement Officials, which it had adopted in 1979, within their national legislation and practice or directives governing law enforcement agencies (for details, see p. 783).


In the Caracas Declaration of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Caracas, Venezuela, 25 August-5 September), endorsed by the General Assembly in resolution 35/171 of 15 December, the Congress declared that programmes for crime prevention and the treatment of offenders should be based on the social, cultural, political and economic circumstances of each country, in a climate of freedom and respect for human rights, that those responsible for the functioning of the criminal justice system were properly qualified and independent of personal or group interest, and that the administration of justice guaranteed the equality of everyone before the law and organs capable of providing speedy and fair justice and ensuring greater security and protection of the rights and freedoms of all (for details, see p. 780).

Declaration and draft convention against torture and other cruel and inhuman treatment

By resolution 35/178 of 15 December, the General Assembly welcomed Economic and Social Council resolution 1980/32 of 2 May, authorizing an open-ended working group of the Commission on Human Rights to meet for one week prior to its 1981 session to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. The Assembly asked the Commission to complete the draft at that session. Preparation of the draft convention had been requested by the Assembly in 1977.

The Council adopted its resolution without vote; the text had been similarly approved by the Second Committee on 29 April. In a resolution of 12 March by which it had proposed the text to the Council, the Commission noted with satisfaction progress made by a working group on the draft convention which had met prior to and during its current session, but had not been able to complete the task; it decided to accord high priority to consideration of the draft at its 1981 session.

The Secretary-General submitted a report to the Assembly in 1980 summarizing information received in response to a questionnaire concerning legislative, administrative or other measures taken by Member States to put into practice the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As at 24 November, 21 States Australia, Bahrain, Bangladesh, the Byelorussian SSR, Costa Rica, Cuba, Ecuador, Egypt, Iraq, Israel, Italy, Jamaica, Lebanon, Madagascar, Mexico, Nicaragua, Thailand, the Ukrainian SSR, the USSR, Venezuela and Yemen had replied since the Secretary-General's 1979 report. A second report by the Secretary-General reproduced Member States' unilateral declarations, received since he last reported in 1979, against torture and other cruel, inhuman or degrading treatment or punishment, called for by the Assembly in 1977 to reinforce their support for the Declaration. As at 21 November 1980, five additional countries - Chile, Iraq, Mexico, Nicaragua and Panama - had deposited such declarations with the Secretary-General.

The Assembly, by resolution 35/178, requested the Secretary-General to forward to the Human Rights Committee the replies to his questionnaire received from States parties to the International Covenant on Civil and Political Rights, and invited Member States which had not done so to deposit with him their unilateral declarations against torture. The forwarding to the Human Rights Committee only of replies received from parties to the International Covenant resulted from an oral revision by the sponsors.

49 See Y.U.N., 1979, p. 84.
50 1977.
The Assembly adopted the resolution without vote; the Third Committee had likewise approved the text on 5 December. It was sponsored by Australia, Austria, Canada, Costa Rica, Denmark, Greece, India, the Netherlands, Panama, Sweden and the United States.

Draft Code of Medical Ethics

The General Assembly, by resolution 35/179 adopted without vote on 15 December, requested the Secretary-General to renew his request to Member States and to inter- and non-governmental organizations for comments and suggestions on the draft Code of Medical Ethics. It requested the Economic and Social Council to consider the draft Code at its April/May 1981 session, and invited Member States to take an active part in deliberations on the Code.

The resolution was approved without vote by the Third Committee on 5 December. It was sponsored by Australia, Costa Rica, Ecuador, Greece, Ireland, Italy, Lesotho, the Netherlands, Portugal, Sweden, Uganda and the United States. The sponsors orally revised their draft to express the belief, in a preambular paragraph, that the elaboration of a draft Code was an important step in the establishment, rather than progressive codification, of international standards in the field of human rights.

The draft Code had been submitted to the Assembly by the World Health Organization (WHO) in 1979, after the WHO Executive Board had endorsed the six principles in the draft, indicating the type of conduct by physicians that would be considered a contravention of medical ethics. The Secretary-General submitted to the Assembly in 1980 a report summarizing the comments and suggestions of Member States and organizations on the draft Code in response to the Assembly’s 1979 request for such information. As at 15 December 1980, the Secretary-General had received replies from 24 countries, two specialized agencies and three non-governmental organizations. Cape Verde, Denmark, the Dominican Republic, Gabon, Maldives and Rwanda neither had any objections to the Code or no specific observations to make. Chile, Cyprus, the German Democratic Republic, Jordan and Suriname supported the Code or agreed to it in general. Austria, Barbados, the Byelorussian SSR, Italy, Japan, the Netherlands, New Zealand, Norway, the Sudan, Sweden, the Ukrainian SSR, the USSR and the United States either expressed specific reservations, suggested redrafting various provisions, or felt that some modifications were needed to clarify certain points or that some of the principles should be re-examined.


Documentation references and texts of resolutions

Human rights of detained or imprisoned persons

Resolution 35/177, as recommended by Third Committee, A/35/743, adopted without vote by Assembly on 15 December 1980, meeting 26.

The General Assembly, recalling the adoption, in its resolution 34/218(XXX) of 9 December 1979, of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recalling also its resolution 34/169 of 17 December 1979, by which it adopted the Code of Conduct for Law Enforcement Officials and decided to transmit it to Governments with the recommendation that favourable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials,

Recalling further that the Economic and Social Council, in its resolutions 1979/34 of 10 May 1979, 1979/34 of 10 May 1979, and 1979/34 of 10 May 1979, requested the Secretary-General to transmit to all Governments, for their comments, the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-first session, with a view to consideration of the matter by the General Assembly at its thirty-fifth session,

1. Takes note of the constructive work undertaken by the open-ended working group which has been established to elaborate a final version of the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which task, however, has not been able to conclude;

BODIES OF PRINCIPLES FOR THE PROTECTION OF DETAINED OR PRISONERS

General Assembly - 35th session
Third Committee, meetings 72-76, 78.
Fifth Committee, meeting 48.
Plenary meeting 96.

A/35/401 and Add.1,2. Report of Secretary-General. (Annex: Draft body of principles for protection of all persons under any form of detention or imprisonment.)
A/C.3/35/14 and Corr.1. Questions of human rights of individuals who are not citizens of country in which they live and draft body of principles for protection of all persons under any form of detention or imprisonment. Report of open-ended working group, section B.
A/C.35/L.73. Austria, Germany, Federal Republic of, Netherlands, Sweden: draft resolution.
A/C.35/L.73/Rev.1. Austria, Colombia, Ecuador, Germany, Federal Republic of, Netherlands, Philippines, Sweden, United States: revised draft resolution, as further orally revised by sponsors and orally amended by Morocco and sponsors, approved without vote by Third Committee on 1 December, meeting 74.
Economic and social questions

A/35/741. Report of Third Committee (on report of Economic and Social Council), draft resolution X.

Resolution 35/193, as recommended by Third Committee, A/35/741, adopted without vote by Assembly on 15 December 1980, meeting 96.

The General Assembly,
Recalling its resolution 33/173 of 20 December 1978, entitled "mysterious disappearances,"
Convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing or disappeared persons,
Expressing again its emotion at the anguish and sorrow of the families of victims of involuntary or enforced disappearances,
1. Welcomes the establishment by the Commission on Human Rights of the working group which has been asked to examine questions relevant to involuntary or enforced disappearances of persons and to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations;
2. Requests the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of its work on the question of involuntary or enforced disappearances when it considers the report to be submitted to it by the working group at its thirty-seventh session;
3. Appeals to all Governments to co-operate with the working group and the Commission on Human Rights and to enable it to perform its task effectively and in a humanitarian spirit;
4. Requests the Secretary-General to draw the concerns expressed in the present resolution to the attention of all Governments, regional and interregional organizations and specialized agencies.

Human rights in the administration of justice

INDEPENDENCE AND IMPARTIALITY IN JUDICIAL PROCEEDINGS

Economic and Social Council- 1st regular session, 1980 Second (Social) Committee, meetings 15, 22.
Plenary meeting 22.

E/1980/13 and Corr.1, Chapter I B. Draft decision 2, as recommended by Commission, approved without vote by Second Committee on 29 April, meeting 22.


At its 22nd plenary meeting, on 2 May 1980, the Council, noting Commission on Human Rights resolution 16((XXXVI)) of 29 February 1980, decided to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to enuste Mr. L. M. Sieghet with the preparation of a report, in the light of the comments made in the Sub-Commission at its thirty-second session, on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, so that there should be no discrimination in the administration of justice and that human rights and fundamental freedoms might be maintained and safeguarded. The Council also decided to request the Secretary-General to give the Special Rapporteur all the assistance he might require in his work.


Declaration and draft convention against torture and other cruel and inhuman treatment

Economic and Social Council- 1st regular session, 1980 Second (Social) Committee, meetings 15, 22.
Plenary meeting 22.

E/1980/13 and Corr.1, Chapter I A. Draft resolution V, as recommended by Commission, approved without vote by Second Committee on 29 April, meeting 22.


The Economic and Social Council.
Recalling General Assembly resolution 32/62 of 8 December 1977, by which the Assembly requested the Committee on Human Rights to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, and Council resolution 1979/35 of 10 May 1979, by which it authorized an open-ended working group of the Commission on Human Rights to meet for a period of one week prior to the thirty-sixth session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment,
Considering that it was not found possible to complete the work on the draft convention during the thirty-sixth session of the Commission,
Taking note of resolution 34((XXXVI)) of 12 March 1980 of the Commission on Human Rights,
1. Authorizes a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the thirty-seventh session of the Commission, to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;
2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-seventh session all the material relevant to the draft convention.

General Assembly- 35th session
Third Committee, meetings 75-77,84.
Plenary meeting 96.

A/35/369 and Add.1.2. Report of Secretary-General (replies from Governments to questionnaires on torture).
A/35/370/Rev.1 and Rev.1/Add.1. Unilateral declarations by Member States against torture and other cruel, inhuman or degrading treatment or punishment. Report of Secretary-General.
A/C.3/35/L.82. Australia, Austria, Canada, Costa Rica, Denmark, Greece, India, Netherlands, Panama, Sweden, United States: draft resolution, as orally revised by sponsors, approved without vote by Third Committee on 5 December, meeting 84.
Other human rights questions

Continuing their efforts further to promote and encourage human rights and fundamental freedoms, the Commission on Human Rights, the Economic and Social Council and the General Assembly in 1980 considered a number of specific human rights questions not covered in the above subchapters.

Draft Code of Medical Ethics

General Assembly- 35th session Third Committee, meetings 75-77, 84. Plenary meeting 96.

A/C.3/35/L.63. Australia, Costa Rica, Ecuador, Greece, Ireland, Italy, Lesotho, Netherlands, Portugal, Sweden, Uganda, United States: draft resolution, as orally revised by sponsors, approved without vote by Third Committee on 5 December, meeting 84.
A/35/143. Report of Third Committee, draft resolution III.

Resolution 35/179, as recommended by Third Committee, A/35/743, adopted without vote by Assembly on 15 December 1980, meeting 96.

The General Assembly,
Recalling its resolution 34/168 of 17 December 1979, in which it requested the Secretary-General to circulate the draft Code of Medical Ethics to Member States, the specialized agencies concerned, interested intergovernmental organizations and interested non-governmental organizations in consultative status with the Economic and Social Council for comments and suggestions,
Taking note of resolution 11 adopted on 5 September 1980 by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Congress expressed the hope that the General Assembly would adopt the draft Code, subject to any amendments which appear to be necessary,
Taking note of the report of the Secretary-General on the draft Code of Medical Ethics,

Having been unable for lack of time to decide the matter during its thirty-fifth session,
Believing, however, that the elaboration of a draft Code of Medical Ethics constitutes an important step in the establishment of international standards in the field of human rights,
1. Requests the Secretary-General to renew his request for comments and suggestions on the draft Code of Medical Ethics to Member States, the specialized agencies concerned, interested intergovernmental organizations and interested non-governmental organizations in consultative status with the Economic and Social Council which have not yet responded to his earlier note, and to submit a revised report to the Economic and Social Council at its first regular session of 1981 and to the General Assembly at its thirty-sixth session;
2. Invites those Member States which have not yet done so to submit their comments and suggestions on the draft Code;
3. Requests the Economic and Social Council to consider the draft Code at its first regular session of 1981, taking into account the comments and recommendations submitted, with a view to presenting it to the General Assembly for adoption at the thirty-sixth session;
4. Invites Member States to take an active part in the future deliberations on the draft Code;
5. Decides to consider again the question of the draft Code of Medical Ethics at its thirty-sixth session under the item entitled “Torture and other cruel, inhuman or degrading treatment or punishment.”

Several decisions and resolutions concerned institutional aspects of the promotion and protection of human rights (see section immediately following). In addition, the Council reiterated its demand for abolition of all restrictions on trade union rights in South Africa (resolution 1980/33). With regard to the human rights of
on the understanding that it would reconsider the texts once definitions had been accepted. Taking up where the earlier group had left off, the working group provisionally adopted two further principles and parts of two others, which were set out in its report.1)

The approved principles included the following: A person who believed that a violation of the principles had occurred or was about to occur would have the right to report the matter to the appropriate authorities (principle 6, paragraph 3); the treatment of detained persons would be appropriate to their unconvicted status and they would be kept separate from prisoners whenever possible (principle 7); arresting, detaining and investigating authorities would exercise only those powers granted by law, subject to recourse to a judicial or other authority (principle 8); and a detained person must be heard promptly by a judicial or other authority and be given the right to defend himself or be assisted by counsel (principle 9, paragraph 1).

On 10 December, the Assembly decided to refer the draft Body of Principles to its 1982 session and to establish another open-ended working group to consider the draft.1) The decision was taken without vote following its approval by consensus in the Sixth Committee on 1 December, on an oral proposal by Sweden.

Introducing the draft decision, Sweden expressed hope that it would soon be possible to agree on a complete draft Body of Principles, for which the fruitful work of the Committee’s working group would provide a good basis. Sweden believed that the method of work used in 1981, which had proved satisfactory, should be used again.


General Assembly decision 36/426

Adopted without vote

Approved by Sixth Committee (A/36/PV.4) by consensus, 1 December (meeting 63); oral proposal by Sweden; agenda item 125.

Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

At its 92nd plenary meeting, on 10 December 1981, the Committee, on the recommendation of the Sixth Committee, decided:

(a) To refer to its thirty-seventh session the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment for further consideration by the Sixth Committee.

(b) To establish, at its thirty-seventh session, an open-ended working group to conclude the consideration of the draft Body of Principles with a view to its adoption by the General Assembly.

Draft convention

Work continued in 1981 in the Commission on Human Rights on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. The General Assembly, in November, requested the Commission to submit a completed draft in 1982.

A working group open to all Commission members, meeting at Geneva from 26 to 30 January 1981 and during the Commission’s session until 6 March, provisionally adopted two additional articles and revised or adopted portions of several others which it had considered in 19791) and 1980.2) The newly approved articles provided for compensation for victims of torture and for the prevention of other acts of cruel, inhuman or degrading treatment. The working group did not complete work on two articles relating to extradition and on provisions for implementing the future convention. Sixteen draft articles were transmitted to the Commission in the group’s report, which was reproduced in the Commission’s report to the Economic and Social Council.1)

The Council, on 8 May,2) authorized a meeting of an open-ended working group for a period of one week prior to the 1982 session of the Commission, to complete work on the draft convention. The resolution was adopted without vote, following its approval by the Second (Social) Committee on 5 May in the same manner.

Adoption of the resolution had been recommended to the Council by the Commission on 10 March. The Commission recognized that it was advisable to continue work on the draft convention in a working group which should meet before its 1982 session and decided to accord high priority at that session to consideration of the draft.1)

GENERAL ASSEMBLY ACTION. The Economic and Social Council recommended by the General Assembly on 25 November. In addition, the Assembly requested the Commission on Human Rights to complete the drafting of the convention as a matter of high priority in 1982, including provisions for its implementation. The Assembly adopted the resolution, without vote, on the recommendation of the Third Committee, which similarly approved the 15-nation draft on 3 November. Introducing the text in the Committee, Sweden said that, despite the divergent opinions expressed in the Commission’s working group, the sponsors felt that the group could complete its work on the draft in 1982.

During the Committee debate on human rights, the progress made in drafting a convention was welcomed by several countries, includ-
ing Madagascar, Norway and Uganda. Portugal said the moral commitment to stamp out torture must be backed by a legal commitment; accordingly, the completion of a draft convention should be given highest priority. Bulgaria, Hungary and Madagascar stated that their legislation contained all legal provisions to prevent anyone from being subjected to torture and other cruel treatment. Sierra Leone noted that the Charter of the organization of African Unity prohibited torture and other cruel treatment.

As at 16 October 1981, the Secretary-General had received, in accordance with a December 1980 resolution, unilateral declarations against torture and other cruel, inhuman or degrading treatment from Australia, the Bahamas and Egypt. He transmitted the three declarations in a report to the Assembly.2


Meeting records: E/1981/2/3/SR.9, 12-17, 18 (27 Apr.-5 May); plenary, E/1981/3/SR.18 (4 May); GA: 3rd Committee, A/C.3/36/SR.27, 28, 32-36, 37, 38 (22 Oct.-3 Nov); plenary, A/36/PV.73 (22 Nov.).

Economic and Social Council resolution 1981/37

Adopted without vote Meeting 18 3 May 1981

Approved by Second Committee (E/1981/145) without votes, 5 May (meeting 19); Draft by Commission on Human Rights (E/1981/25); agenda item 7.

Draft convention against torture and other cruel, inhuman or degrading treatment or punishment

The Economic and Social Council,

Recalling General Assembly resolution 35/178 of 15 December 1980, by which the Assembly requested the Commission on Human Rights to complete as a matter of urgency, at its thirty-seventh session, the drafting of a convention against torture and other cruel, inhuman or degrading treatment or punishment, and Economic and Social Council resolution 1980/32 of 2 May 1980, by which the Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the thirty-seventh session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment,

Considering that it was not found possible to complete the work on the draft convention during the thirty-seventh session of the Commission,

Taking note of resolution 25(XXXVII) of 10 March 1981 of the Commission on Human Rights,

1. Authorizes a meeting of an open-ended working group for a period of one week prior to the thirty-eight session of the Commission on Human Rights to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;

2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-eight session all relevant material relating to the draft convention.

General Assembly resolution 36/60

Adopted without vote Meeting 73 25 November 1981

Approved by Third Committee (A/36/845) without votes, 3 November (meeting 38); plenary draft (A/C.3/36/L.34); agenda item 91 (a).

Draft Principles of Medical Ethics

Following consideration by the Economic and Social Council in May 1981, the General Assembly decided in November to seek further comments from Member States on a revised set of draft Principles of Medical Ethics relevant to the role of health personnel in the protection of imprisoned and detained persons against torture and other cruel, inhuman or degrading treatment or punishment.

The draft Principles, originally in the form of a draft Code of Medical Ethics, had been endorsed by the Executive Board of the World Health Organization (WHO) in 1979.6 As revised by a group of States during the 1981 Assembly session, principle 1 stated that prisoners and detainees had the same rights as others to the protection of physical or mental health and treatment of disease. Principles 2 to 4 declared it to be in contravention of medical ethics for health personnel to participate in torture or other cruel treatment, to be involved with prisoners or detainees in any relationship other than medical, to assist in interrogation, and to certify prisoners fit for punishment that might adversely affect their health. Principle 5 stated that partici-
Principle 5

It is a cornerstone of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a prisoner or detainee unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee himself, of his fellow prisoners or detainees, or of the guards and personnel necessary to his physical or mental health.

Principle 6

There may be no derogation from the foregoing principles on any ground whatsoever, including public emergency.

4. The Declaration on the Protection of All Persons from Being Subject to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 34/170, annex), article 1, to which states:

"1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official or a person acting in an official capacity for the purpose of obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or another person, it does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions, to the extent consistent with the Standards Minimum Rules (for the Treatment of Prisoners).

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment."

Article 7 of the Declaration states:

"Each State shall ensure that all acts of torture as defined in articles 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, conspiracy to, or an attempt to commit torture."

Particularly the Universal Declaration of Human Rights (resolution 217 A (III), the International Covenant on Civil and Political Rights (resolution 2200 A (XXI), annex), the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 34/170, annex) and the Standards Minimum Rules for the Treatment of Prisoners (First United Nations Congress on the Prevention of Crime and the Treatment of Offenders report by the Special Rapporteur (United Nations publication, Sales No. 59/1975), annex 1)."

Draft convention on the prohibition of torture

Work continued in 1991 in the Commission on Human Rights on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment.

A working group open to all Commission members, meeting at Geneva from 25 to 29 January and during the Commission's session until 4 March, provisionally adopted three articles and revised or adopted portions of several others which it had considered in 1979, 1980 and 1981.

The newly approved articles provided for a definition of torture (article 1), extradition for acts of torture or attempts to commit torture (article 8) and for compensation to the victims of torture (article 14), provisionally agreed to in 1981. The working group did not complete work on articles relating to prosecution of individuals alleged to have committed or attempted to commit torture (article 7) and to the establishment of State jurisdiction over acts of or attempts to commit torture (article 5, paragraph 2), nor did it complete work on provisions for implementing the future convention. Sixteen draft articles were transmitted to the Commission in the group's report, which was reproduced in the Commission's report to the Economic and Social Council.

Economic and Social Council action. The Council, on 7 May 1982, authorized a meeting of an open-ended working group for one week prior to the 1983 session of the Commission on Human Rights to complete work on the draft convention. The resolution was adopted without vote, following its approval in the Second (Social) Committee on 5 May in the same manner. Adoption of the resolution had been recommended by the Commission on 11 March (2).

Sub-Commission action. By a resolution of 7 September (3) on the human rights of detained persons (see above), the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided that the Working Group on Detention in 1983 should hear and receive information on torture or cruel, inhuman or degrading treatment or punishment, unless the Commission established a system for examining such information. It decided that such hearings should be conducted annually except for States becoming parties to a convention against torture.

General Assembly action. Welcoming the Economic and Social Council's resolution, the General Assembly on 18 December (4) requested the Commission on Human Rights to complete the drafting of the convention as a matter of high priority in 1983, including provisions for its implementation.

The Assembly adopted the resolution, without vote, on the recommendation of the Third Committee, which similarly approved on 7 December a 19-nation draft introduced by Sweden.

Economic and Social Council resolution 1982/38

7 May 1982 Meeting 28 Adopted without vote

Approved by Second Committee (E/1982/59) without vote, 5 May (amending 15), draft by Commission on Human Rights (E/1982/12); agenda item 9.

Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular torture and other cruel, inhuman or degrading treatment or punishment

The Economic and Social Council,

Recalling General Assembly resolution 36/60 of 25 November 1981, by which it is requested that the General Assembly, in its thirty-eighth session, consider further the question of the human rights of all persons subjected to any form of detention or imprisonment, in particular torture and other cruel, inhuman or degrading treatment or punishment, and Economic and Social Council resolution 1981/97 of 8 May 1981 by which the Council authorized a meeting of the open-ended working group for a period of one week prior to the thirty-eighth session of the Commission on Human Rights to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment,

Considering that 1 had not been possible to complete the work on the draft convention during the thirty-eighth session of the Commission on Human Rights,
Taking note of resolution 1982/44 of 11 March 1982 of the Commission on Human Rights,1

1. Authorizes a Committee of an open-ended working group for a period of one week prior to the thirty-ninth session of the Commission on Human Rights to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;

2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-ninth session all relevant material relating to the draft convention.

General Assembly resolution 37/193

18 December 1982 Meeting 1:1 Adopted without vote

Approved by Third Committee (A/37/727) without vote, 7 December (voting 67);

16-nation draft (A/37/727/Add.4); agenda item 38.

Sponsors: Australia, Austria, Canada, Costa Rica, Denmark, Ecuador, Finland, Ghana, Grenada, India, Italy, Netherland, Nicaragua, Norway, Portugal, Senegal, Spain, Sweden.

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 34/106 of 9 December 1979;

Noting its resolution 7 of the International Covenant on Civil and Political Rights, Recalling also its resolution 32/62 of 8 December 1977, in which it requested the Commission on Human Rights to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration, and its resolution 32/63 of 8 December 1977;

Recalling further that the Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders, in its resolution II of 5 September 1986, expressed the belief that the draft convention should be finalised at the earliest possible time;

Considering that it was not found possible to complete the work on the draft convention during the thirty-eighth session of the Commission on Human Rights;

1. Welcomes Economic and Social Council resolution 1982/38 of 7 May 1982, by which the Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the thirty-ninth session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;

2. Requests the Commission on Human Rights to complete a draft convention on torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration, and its resolution 32/63 of 8 December 1977;

Recalling further that the Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders, in its resolution II of 5 September 1986, expressed the belief that the draft convention should be finalised at the earliest possible time;

Considering that it was not found possible to complete the work on the draft convention during the thirty-eighth session of the Commission on Human Rights;

1. Welcomes Economic and Social Council resolution 1982/38 of 7 May 1982, by which the Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the thirty-ninth session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration, and its resolution 32/63 of 8 December 1977;

2. Requests the Commission on Human Rights to complete a draft convention on torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration, and its resolution 32/63 of 8 December 1977;

3. Decides to include in the provisional agenda of its thirty-ninth session the item entitled “Torture and other cruel, inhuman or degrading treatment or punishment.”

Unilateral declarations

As at 30 September 1982, the Secretary-General had received, in accordance with a 1980 General Assembly resolution, (2) unilateral declarations against torture and other cruel, inhuman or degrading treatment from France, Rwanda, Saint Vincent and the Grenadines, and Sri Lanka. He had transmitted the four declarations in a November 1982 report to the Assembly.(1)


UN Voluntary Fund for Victims of Torture

As at 31 December 1982, six countries (Cyprus, Denmark, Finland, Netherlands, Norway, Sweden) had contributed $21,066 to the United Nations Voluntary Fund for Victims of Torture (originally the United Nations Trust Fund for Chile, redesignated by the General Assembly in December 1981(3)).

On 11 March 1982, (2) the Commission on Human Rights called for favourable responses to requests for contributions to the Fund, and requested the Secretary-General to transmit this appeal to Governments. The Secretary-General reported to the Assembly(1) that, on 11 November, he had appointed four members of the Fund's Board of Trustees for a three-year term, and that consideration was being given to the appointment of a fifth member. Consultations with the Board were being conducted to determine a suitable date for the Board's first session.


Detention on grounds of mental illness

The Commission on Human Rights, on 19 February 1982,(3) requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider at its August/September session, as a matter of priority, a report on the protection of persons detained on grounds of mental ill-health or suffering from mental disorder, prepared by the Sub-Commission's Special Rapporteur, Mrs. Erica-Irene A. Daes (Greece). The Commission asked the Sub-Commission to submit its views and recommendations, including a draft body of guidelines, principles and guarantees, in 1983 when it would consider the Sub-Commission's report as a priority.


A sessional working group, established by the Sub-Commission on 19 August 1982, reported in September(2) that it had undertaken a first reading of the draft body. The group agreed that its work could only be of a preliminary nature in 1982 and that it would proceed in 1983 to a thorough analysis of each provision.

On 10 September 1982,(5) the Sub-Commission recommended that the Commission recommend to the Economic and Social Council adoption of a resolution requesting the Special Rapporteur to supplement her final report, taking into account the views of the Sub-Commission and the Commission and including any new replies from Governments or specialized agencies. Under the resolution, the Sub-Commission would be re-
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(a) Took note with appreciation of the report of the Working Group on the Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, established in accordance with General Assembly decision 37/427 of 16 December 1982 to elaborate a final version of the draft Body of Principles, a task which it had not been able to conclude;
(b) Decided to establish at its thirty-ninth session an open-ended working group of the Sixth Committee with a view to expediting the finalization of the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
(c) Requested the Secretary-General to circulate to Member States the report of the open-ended Working Group established at the thirty-eighth session;
(d) Decided to include in the provisional agenda of its thirty-ninth session the item entitled "Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment".

General Assembly decision 38/428

Adopted without vote

Approved by Sixth Committee (A/38/676) without vote, 8 December (meeting 70);

draft by Sweden (A/C.6/38/L.20); D/76 = 135;

Meeting. 26th session. 6th Committee, 5, 70; panay 101.

Torture and cruel treatment

Work continued in 1983, in the Commission on Human Rights and in a working group, on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. Following the Commission's recommendation, the Economic and Social Council in May authorized a similar working group for 1984 to complete work on the draft. Its completion in that year as a matter of highest priority was requested of the Commission by the General Assembly in December 1983.

In November, the Secretary-General reported to the Assembly on the status of the United Nations Voluntary Fund for Victims of Torture, to which contributions of $350,882 were made in 1983. Contributions were again called for by the Assembly in December.

On 4 March, the Commission requested that implementation of a September 1982 decision of the Sub-Commission asking its Working Group on Detention to hear and receive information on torture of detained persons, be deferred until the 1984 Commission session.

Draft convention on the prohibition of torture

Working group activities. A working group with Jan Herman Burgers (Netherlands) as Chairman/Rapporteur and open to all members of the Commission on Human Rights met between 24 January and 24 February 1983 to continue work on a draft convention on the prohibition of torture. The sections considered included: article 3, paragraph 2 (determination of grounds for believing a person to be in danger of being subjected to torture); and article 5, paragraph 2, article 6, paragraph 4, and article 7 (on universal jurisdiction). Article 16 (State prevention of degrading treatment or punishment) was reconsidered to determine whether the reference to article 14 (redress and compensation) in paragraph 1 should be retained or deleted; since no consensus could be reached, it was decided to maintain the provisional status of the reference by retaining the square brackets around it.

The draft as it emerged at the end of the meetings was annexed to the group's report(7) to serve as a basis for further discussion. It consisted of a seven-clause preamble adopted in 1983; part I containing 16 substantive articles, decision on 5 of which remained pending; part II containing 8 articles relating to the convention's implementation, 5 of them based on proposals submitted by the Chairman/Rapporteur in 1983 and redrafted in the light of discussions; and part III containing 7 final clauses, 6 of them also based on proposals submitted by the Chairman/Rapporteur.

Action by the Commission on Human Rights.

By a resolution of 9 March 1983(8) the Commission on Human Rights, desirous of expediting work on the draft convention, to which it decided to give priority consideration at its 1984 session, recommended to the Economic and Social Council adoption of a draft resolution authorizing a working group to meet prior to that session to complete work on the draft.

Economic and Social Council action

On 27 May 1983, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1983/38 without vote.

Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular torture and other cruel, inhuman or degrading treatment or punishment

The Economic and Social Council, recalling General Assembly resolution 37/193 of 18 December 1982, by which the Assembly requested the Commission on Human Rights to complete as a matter of highest priority, at its thirty-ninth session, the drafting of a convention on torture and other cruel, inhuman or degrading treatment or punishment, and Economic and Social Council resolution 1982/38 of 7 May 1982, by which the Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the Commission's thirty-ninth session to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, considering that it was not found possible to complete the work on the draft convention during the thirty-ninth session of the Commission,

Taking note of Commission on Human Rights resolution 1983/48 of 9 March 1983,

1. Authorizes a meeting of an open-ended working group for a period of one week prior to the fortieth ses-
sion of the Commission on Human Rights to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;
2. Requests the Secretary-General to transmit to the Commission on Human Rights at its fortieth session all relevant material relating to the draft convention.

Economic and Social Council resolution 1983/38
27 May 1983 Meeting 15 Adopted without vote
Approved by Secret Committee (E/6330) without vote, 25 May (meeting 15);
Meeting number. E/2015.

GENERAL ASSEMBLY ACTION
On 16 December 1983, the General Assembly adopted, on the recommendation of the Third Committee, resolution 38/119 without vote.

Torture and other cruel, inhuman or degrading treatment or punishment
The General Assembly,
Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 34/52 (XXX) of 9 December 1979,
Recalling further that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 11 of 5 September 1980, expressed the belief that the draft convention should be finalized at the earliest possible time,
Considering that it was not possible to complete the work on the draft convention during the thirty-ninth session of the Commission on Human Rights,
1. Welcomes Economic and Social Council resolution 1983/38 of 27 May 1983, in which the Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to the fortieth session of the Commission in order to complete the work on a draft convention;
2. Requests the Commission on Human Rights to complete, at its fortieth session, as a matter of the highest priority, the drafting of a convention against torture and other cruel, inhuman or degrading treatment or punishment, with a view to submitting a draft, including provisions for the effective implementation of the future convention, to the General Assembly at its thirty-ninth session;
3. Decides to include in the provisional agenda of its thirty-ninth session the item entitled "Torture and other cruel, inhuman or degrading treatment or punishment".

General Assembly resolution 38/119
16 December 1983 Meeting 100 Adopted without vote
Approved by Third Committee (A/22197) without vote, 30 November (meeting 27);
1st reading draft (A/C.3/3195) agenda item 87.
Sponsors: Austria, Belgium, Canada, Costa Rica, Cuba, Denmark, Finland, Greece, Iceland, Italy, Japan, Pakistan, Portugal, Senegal, Spain, Sweden.
Meeting numbers. 49th session: 3rd Committee 4654, 57; plenary 100.

Fund for victims of torture
On 22 February 1983,(4) the Commission on Human Rights, reiterating the need to provide assistance to the victims of torture or to activities on their behalf, called on Governments, organizations and individuals to contribute to the United Nations Voluntary Fund for Victims of Torture, established in 1981.(5) It requested the Secretary-General to transmit its appeal to all Governments and to keep it informed of the Fund’s operations.
In his November report on the status of the Fund(6), the Secretary-General stated that in 1983 its Board of Trustees—at its first session at Geneva from 21 to 25 March and at its second in New York from 24 to 28 October—reviewed the Fund’s programme of activities and a number of projects submitted for support. The Board found the needs of torture victims to be considerable and expected requests for assistance, already large in number, to increase. The Board thus decided, as a matter of priority, to solicit contributions from Governments and individuals and other public and private sources.
In keeping with its decision to concentrate initially on supporting programmes providing direct assistance for the rehabilitation of torture victims—a process requiring special medical and psychological care—the Board recommended a number of grants to the Secretary-General for such assistance, including support for medical and psychological training courses and for humanitarian missions by experienced medical personnel. The number of projects reviewed called for a total amount far exceeding the funds available. Nine grants were recommended, amounting to $263,200, which the Secretary-General subsequently made available.
In 1983, eight countries—Canada, Cyprus, Finland, France, the Federal Republic of Germany, Greece, Luxembourg and Sweden—contributed $350,882 to the Fund.

GENERAL ASSEMBLY ACTION
On 16 December 1983, on the recommendation of the Third Committee, the General Assembly adopted resolution 38/92 without vote.

United Nations Voluntary Fund for Victims of Torture
The General Assembly,
Recalling article 5 of the Universal Declaration of Human Rights, which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment;
Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
Recalling further its resolution 36/151 of 16 December 1981, in which it noted with deep concern that acts of torture took place in various countries, recognized the
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need to provide assistance to the victims of torture in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture. Convinced that the struggle to eliminate torture includes the provision of assistance in a humanitarian spirit to the victims and their family members,

Taking note of the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture,

1. Expresses its gratitude and appreciation to those Governments and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

2. Calls upon all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund;

3. Expresses its appreciation to the Board of Trustees of the Fund for the work it has carried out;

4. Expresses its appreciation to the Secretary-General for the support given to the Board of Trustees;

5. Requests the Secretary-General to make use of all existing possibilities to assist the Board of Trustees of the Fund, inter alia through the preparation, production and dissemination of information materials, in its efforts to make the Fund and its humanitarian work better known and in its appeal for contributions.

General Assembly resolution 38/118
16 December 1983 Meeting 100 Adopted without vote

Approved by Third Committee (A/38/L.90) without vote, 7 December (meeting 97);
Revision draft (A/38/L.154) agenda item 12.

Sponsors: Bahia, Canada, Costa Rica, Denmark, Finland, Germany, Federal Republic of Germany, Kenya, Mexico, Netherlands, Norway, Sweden.

Meeting numbers: GA 38th session: 3rd Committee 18, 54, 55, 57/47, plenary 100.

Principles of Medical Ethics

GENERAL ASSEMBLY ACTION

Acting without vote on the recommendation of the Third Committee, the General Assembly, on 16 December 1983, adopted resolution 38/118.

Principles of Medical Ethics

The General Assembly,

Recalling its resolution 37/194 of 18 December 1982, by which it adopted the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment;

According that not infrequently members of the medical profession or other health personnel are engaged in activities which are difficult to reconcile with the Principles of Medical Ethics,

Recognizing the need for the full application of the Principles of Medical Ethics and desiring that the Principles be given wide publicity,

1. Urges all Governments to take measures with a view to promoting the application by all health personnel and government officials, in particular those employed in institutions of detention or imprisonment, of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment;

2. Requests the Secretary-General to disseminate the Principles of Medical Ethics widely and in as many languages as possible and to issue a pamphlet containing the text of the Principles in the six official languages of the United Nations;

3. Calls upon all Governments to give the Principles of Medical Ethics the widest possible distribution, in particular among medical and paramedical associations and institutions of detention or imprisonment, in an official language of the State;

4. Invites all relevant intergovernmental organizations, in particular the World Health Organization, and non-governmental organizations concerned to bring the Principles of Medical Ethics to the attention of the widest possible group of individuals, especially those active in the medical and paramedical field;

5. Requests the Secretary-General to report to the General Assembly at its thirty-ninth session on the steps taken by the United Nations and the relevant specialized agencies, as well as by Governments, for the dissemination and implementation of the Principles of Medical Ethics.

General Assembly resolution 38/118
16 December 1983 Meeting 100 Adopted without vote

Approved by Third Committee (A/38/L.90) without vote, 7 December (meeting 97);
Revision draft (A/38/L.154) agenda item 12.

Sponsors: Bahia, Canada, Costa Rica, Denmark, Finland, Germany, Federal Republic of Germany, Kenya, Mexico, Netherlands, Norway, Sweden.

Meeting numbers: GA 38th session: 3rd Committee 18, 54, 55, 57/47, plenary 100.

Detention on grounds of mental illness

Following a Commission on Human Rights recommendation of 9 March 1983, the Economic and Social Council adopted resolution 1983/37 on 27 May requesting the Sub-Commission to set up a sessional working group to examine as a matter of highest priority the draft principles, guidelines and guarantees for the protection of persons detained on grounds of mental illness or suffering from mental disorder. The draft had been prepared by Special Rapporteur Erica-Irene A. Daes (Greece), who was asked expeditiously to supplement her 1982 report.

Responding, the Special Rapporteur submitted a final report (1) to the Sub-Commission in August. Taking account of comments by Governments, specialized agencies, intergovernmental organizations and NGOs, as well as of judgements of regional and national courts and writings of recognized scholars and scientists, the report summarized the history of the treatment and care of the mentally ill and of mental institutions. It also surveyed the basic contribution to the protection of the patient's human and legal rights by the United Nations and its specialized agencies, the courts, intergovernmental organizations and NGOs.

The report made a series of observations and conclusions. Among them were that problems created by mental illness varied with such factors as a country's political and legal systems, medical standards, financial resources, and understanding and concern; psychiatry was frequently used to

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1. The full text of the report is available in the document.

Established pursuant to an Assembly decision of December 1983, the 1984 Working Group met in New York between 26 September and 26 November, with Tulio Trevis (Italy) as Chairman/Rapporteur. It resumed work on the draft at principle 19 and left off at principle 22, paragraph 1. These covered specific rights of persons detained or imprisoned, including, during their interrogations, prohibitions against self-incrimination or testimony against others, threats or violent methods of interrogation, and medical or scientific experimentation; and the right to recording and certification of their interrogation in all of its aspects and of access to such record, to free medical examination upon detention and thereafter as necessary, and to a second medical opinion. The approved provisional texts were annexed to the Group's report.

GENERAL ASSEMBLY ACTION

Acting without vote on the recommendation of the Sixth Committee, the General Assembly in December adopted decision 39/418.

Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

At its 99th plenary meeting, on 13 December 1984, the General Assembly, on the recommendation of the Sixth Committee:

(a) Took note with appreciation of the report of the Working Group on the Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, established in accordance with General Assembly decision 37/427 of 16 December 1982 to elaborate a final version of the draft Body of Principles, a task which it had not been able to conclude;

(b) Decided that an open-ended working group of the Sixth Committee would be established at its fortieth session with a view to expediting the finalization of the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;

(c) Decided to request the Secretary-General to circulate to Member States the report of the open-ended Working Group established at the thirty-ninth session;

(d) Decided to include in the provisional agenda of its fortieth session the item entitled "Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment".

General Assembly decision 39/418

Adopted without vote

Economic and social questions

Torture and cruel treatment

In 1984, a working group of the Commission on Human Rights completed elaboration of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. Work on the draft had begun in 1976 and had been carried out yearly since by a Commission working group set up by authority of the Economic and Social Council before each Commission session. The final text, submitted to the Commission by the 1984 working group, was transmitted to the General Assembly through the Council.

Contributions to the United Nations Voluntary Fund for Victims of Torture were once again called for by the Commission in March and by the Assembly in December.

The 1984 sessional Working Group on Detention (see above) began to conduct annual hearings and to receive information on torture and other cruel treatment, as called for by the Sub-Commission in 1982 and authorized by the Commission in 1983. Information was provided by six NGOs, among them Amnesty International, which drew attention to a 12-point programme for the prevention of torture, which it launched with the publication of its report entitled "Torture in the 1980s".

Convention against torture

Working group activities. As authorized by the Economic and Social Council in May 1983, the Commission on Human Rights set up an open-ended working group before its February/March 1984 session to complete work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. Elaboration of the convention, requested of the Commission by the General Assembly in 1977 and in progress since 1978, had been pursued by a succession of similar working groups authorized yearly by the Council. The 1984 working group, meeting at Geneva between 30 January and 16 February, with Jan Horman Burgers (Netherlands) as Chairman/Rapporteur, considered the unresolved portions of the 1983 text.

The title and the preamble were left unchanged. Article 3, paragraph 2, was adopted following deletion of "a State policy of apartheid, racial discrimination or genocide, colonialism or neo-colonialism, the suppression of national liberation movements or the occupation of foreign territory" and insertion of "flagrant or mass". Articles 5, 6 and 7 remained unaltered and were adopted without prejudice to the reservations expressed. In article 16, a reference to article 14 was deleted.

As to the provisions on implementation, article 17 was amended to increase the number of experts to 10 and the term of office to four years. A new paragraph on meeting expenses was added to ar-
article 18. Since no agreement was reached on the proposal to replace "comments or suggestions" by "general comments" in article 19, or on the question of giving the proposed inquiry system an optional character in article 20, both articles could not be adopted. Articles 21 to 24 remained unchanged and were adopted.

As to the final clauses, articles 25 to 27 and 31 were adopted without change. Article 28 was amended by the insertion of "within four months from the date of such communication" in the third sentence. A new article on dispute settlement was added and numbered 29; former articles 29 to 31 were thus renumbered 30 to 32. A new paragraph was added to article 30 and the references in article 31 were changed due to the renumbering.

The draft convention as provisionally adopted was annexed to the group's report. (37)

Action by Commission on Human Rights. On 6 March 1984, (38) the Commission on Human Rights, having examined the working group's report, decided to transmit it to the General Assembly, through the Economic and Social Council, together with the summary records of the Commission's debate on the item. The Commission recommended that the Assembly consider the draft convention with a view to its early adoption. It requested the Secretary-General to bring the documents mentioned to the attention of Governments and to obtain their comments, preferably before 1 September, for submission to the 1984 Assembly session.

ECONOMIC AND SOCIAL COUNCIL ACTION

Acting without vote on the recommendation of its Second Committee, the Economic and Social Council in May adopted decision 1984/134.

Draft convention against torture and other cruel, inhuman or degrading treatment or punishment

At its 20th plenary meeting, on 24 May 1984, the Council, noting Commission on Human Rights resolution 1984/21 of 6 March 1984, decided to transmit to the General Assembly the report of the working group established by the Commission to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, as well as the summary records of the Commission's debate on the question during its fortieth session. The Council further noted the Commission's request to the Secretary-General to submit the comments received from Governments on the draft convention, in conformity with Commission resolution 1984/21, to the General Assembly at its thirty-ninth session, and the Commission's recommendation that the Assembly should consider, pursuant to its resolution 38/119 of 16 December 1983, the draft convention contained in the annex to the working group's report as a matter of priority, with a view to the early adoption of a convention against torture and other cruel, inhuman or degrading treatment or punishment.

Economic and Social Council decision 1984/134

Adopted without vote

Approved by Second Committee (E/1984/99) without vote, 17 May (meeting 16); draft by Commission on Human Rights (E/1984/14) agenda item 18.

GENERAL ASSEMBLY ACTION

Responding to the Commission's request of 6 March (see above), the Secretary-General submitted to the Assembly in October a report with later addenda, (39) summarizing the comments communicated by 31 Governments on the draft convention.

Acting on the recommendation of the Third Committee, the Assembly adopted resolution 39/46 without vote on 10 December 1984.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The General Assembly,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

Recalling also its resolution 32/162 of 8 December 1977, in which it requested the Commission on Human Rights to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, in the light of the principles embodied in the Declaration,

Recalling further that, in its resolution 38/119 of 16 December 1983, it requested the Commission on Human Rights to complete, at its fortieth session, as a matter of highest priority, the drafting of such a convention, with a view to submitting a draft, including provisions for the effective implementation of the future convention, to the General Assembly at its thirty-ninth session,

Taking note with satisfaction of Commission on Human Rights resolution 1984/21 of 6 March 1984, by which the Commission decided to transmit the text of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, contained in the annex to the report of the Working Group, to the General Assembly for its consideration,

Desiring of achieving a more effective implementation of the existing prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

1. Expresses its appreciation for the work achieved by the Commission on Human Rights in preparing the text of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment;

2. Adopts and opens for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to the present resolution;

3. Calls upon all Governments to consider signing and ratifying the Convention as a matter of priority.

ANNEX

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all mem-
bers of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

Part I

Article 1

1. For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of a wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make those offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall
in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties or mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investiga-
are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but those rules shall provide, inter alia, that:

(a) Six members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the cooperation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competences of the Committee to receive and consider communications to the effect that a State Party claims that
another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the Committee which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report;

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(j) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of subparagraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall
transmit copies thereof to the other States Parties. A
declaration may be withdrawn at any time by notification
to the Secretary-General. Such a withdrawal shall
not prejudice the consideration of any matter which is
the subject of a communication already transmitted
under this article; no further communication by or on
behalf of an individual shall be received under this ar-
ticle after the notification of withdrawal of the declara-
tion has been received by the Secretary-General, un-
less the State Party has made a new declaration.

Article 23
The members of the Committee and of the ad hoc con-
ciliation commissions which may be appointed under
article 21, paragraph 1 (c), shall be entitled to the facili-
ties, privileges and immunities of officials of the United
Nations as laid down in the relevant sections of the
Conventions on the Privileges and Immunities of
the United Nations.

Article 24
The Committee shall submit an annual report on its
activities under this Convention to the States Parties
and to the General Assembly of the United Nations.

Part III
Article 25
1. This Convention is open for signature by all
States.
2. This Convention is subject to ratification. Instru-
ments of ratification shall be deposited with the Court,
Secretary-General of the United Nations.

Article 26
This Convention is open to accession by all States.
Accession shall be effected by the deposit of an instru-
ment of accession with the Secretary-General of the
United Nations.

Article 27
1. This Convention shall enter into force on the thir-
tieth day after the date of the deposit by the Secretary-
General of the United Nations of the twentieth instru-
ment of ratification or accession.
2. For each State ratifying this Convention or acced-
ting to it after the deposit of the twentieth instrument
of ratification or accession, the Convention shall enter
into force on the thirtieth day after the date of the deposit
of its own instrument of ratification or accession.

Article 28
1. Each State may, at the time of signature or ratifi-
cation of this Convention or accession thereto, declare
that it does not recognize the competence of the Com-
mitees as provided for in article 20.
2. Any State Party having made a reservation in ac-
cordance with paragraph 1 of this article may, at any
time, withdraw this reservation by notification to the
Secretary-General of the United Nations.

Article 29
1. Any State Party to this Convention may propose
an amendment and file it with the Secretary-General
of the United Nations. The Secretary-General shall
thereupon communicate the proposed amendment to
the States Parties with a request that they notify him
whether they favour a conference of States Parties for
the purpose of considering and voting upon the proposal.
In the event that within four months from the date of
such communication at least one third of the States Par-
ties favours such a conference, the Secretary-General
shall convene the conference under the auspices of the
United Nations. Any amendment adopted by a majority
of the States Parties present and voting at the confer-
ence shall be submitted by the Secretary-General to all
the States Parties for acceptance.
2. An amendment adopted in accordance with para-
graph 1 of this article shall enter into force when two
thirds of the States Parties to this Convention have noti-
fied the Secretary-General of the United Nations that
they have accepted it in accordance with their respec-
tive constitutional processes.
3. When amendments enter into force, they shall
be binding on those States Parties which have accepted
them, other States Parties still being bound by the pro-
visions of this Convention and any earlier amendments
which they have accepted.

Article 30
1. Any dispute between two or more States Parties
concerning the interpretation or application of this Con-
vention which cannot be settled through negotiation
shall, at the request of one of them, be submitted to ar-
britation. If within six months from the date of the re-
quest for arbitration the Parties are unable to agree on
the organization of the arbitration, any one of those Par-
ties may refer the dispute to the International Court of
Justice by request in conformity with the Statute of the
Court.
2. Each State may, at the time of signature or ratifi-
cation of this Convention or accession thereto, declare
that it does not consider itself bound by paragraph 1 of
this article. The other States Parties shall not be bound
by paragraph 1 of this article with respect to any State
Party having made such a reservation.
3. Any State Party having made a reservation in ac-
cordance with paragraph 2 of this article may at any
time withdraw this reservation by notification to the
Secretary-General of the United Nations.

Article 31
1. A State Party may denounced this Convention by
written notification to the Secretary-General of the
United Nations. Denunciation becomes effective one
year after the date of receipt of the notification by the
Secretary-General.
2. Such a denunciation shall not have the effect of
releasing the State Party from its obligations under this
Convention in regard to any act or omission which oc-
curred prior to the date at which the denunciation becomes
effective, nor shall denunciation prejudice in any way
the continued consideration of any matter which is al-
ready under consideration by the Committee prior to
the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of
a State Party becomes effective, the Committee shall not
commence consideration of any new matter regarding
that State.

Article 32
The Secretary-General of the United Nations shall
inform all States Members of the United Nations and
all States which have signed this Convention or acceded
to it of the following:
(a) Signatures, ratifications and accessions under ar-
ticle 25 and 26;
Human rights

(b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
(c) Denunciations under article 31.

Article 33
1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

General Assembly resolution 39/46
10 December 1984 Meeting 93 Adopted without vote
Approved by Third Committee (A/39/48 and C3/52) without vote, 5 December (meeting 40); 34-nation draft ASC/39/54, orally revised, adopted by Byelorussian SSR (A/39/55, 56) and further amended by 10 nations (A/C.3/359/L.49); agenda item 99.
Sponsors of Text: Argentina, Australia, Austria, Belgium, Bolivia, Colombia, Costa Rica, Dominican Republic, Finland, France, Gabon, Germany, Iceland, Italy, New Zealand, Norway, Panama, Portugal, Senegal, Singapore, Spain, Sweden, United Kingdom, Yugoslavia, United States, Canada, Mexico, USSR, Viet Nam, Financial implications: S/16, A/C.3/359/L.42.
Meeting numbers: GA 39th session; 3rd Committee 44/52, 55, 57, 60; plenary 93.

During its consideration by the Third Committee, the draft convention underwent several modifications. In addition to oral revisions made to paragraphs 1 and 5 of article 20, the sponsors agreed to the 10-nation amendments, according to which, in paragraph 3 of article 19, the word “general” was inserted before “comments” and the phrase “or suggestions on the report” was deleted; also deleted were, in paragraph 4, the words “or suggestions”. A new article 28 proposed by the Byelorussian SSR was accepted and the subsequent articles renumbered accordingly.

Also in Committee, Iran introduced, but did not press to a vote, a draft resolution which would have had the Assembly condemn all acts of torture as contrary to human dignity and request States to prohibit trade in instruments of torture and to ban their development and production.

Fund for victims of torture
On 6 March 1984 (A/39/61) the Commission on Human Rights again called on Governments, organizations and individuals to contribute to the United Nations Voluntary Fund for Victims of Torture, established in 1981. The Commission asked the Secretary-General to transmit its appeal to Governments for further contributions and to assist the Board of Trustees in efforts to give publicity to the Fund’s humanitarian work. It also asked him to keep the Commission informed of the Fund’s operations.

The Secretary-General stated in his annual report on the status of the Fund as at 31 October 1984 that the Board, which met in a third session at Geneva from 27 to 29 August, had recommended to him approval of grants for 18 projects, including follow-up grants for ongoing projects, totalling $15 780. The projects were to assist reparation centres for torture victims at Copenhagen (Denmark) and Toronto (Canada), to finance training courses or seminars on treatment and rehabilitation, and to support other projects such as those providing medical and psychological aid to victims.

In 1984, the Fund recorded a total income of $646,793 and a total expenditure of $80,031.

GENERAL ASSEMBLY ACTION
Acting without vote on the recommendation of the Third Committee, the General Assembly adopted resolution 39/113 on 14 December 1984.

United Nations Voluntary Fund for Victims of Torture
The General Assembly,
Recalling article 5 of the Universal Declaration of Human Rights, which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,
Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
Recalling further its resolution 36/151 of 16 December 1981, in which it noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims of torture in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture,
Convinced that the struggle to eliminate torture includes the provision of assistance in a humanitarian spirit to the victims and their family members,
Taking note of the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture,
1. Expresses its gratitude and appreciation to those Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;
2. Calls upon all Governments, organizations and individuals in a position to do so to respond favourably to requests for initial as well as further contributions to the Fund;
3. Expresses its appreciation to the Board of Trustees of the Fund for the work it has carried out;
4. Expresses its appreciation to the Secretary-General for the support given to the Board of Trustees;
5. Requests the Secretary-General to make use of all existing possibilities to assist the Board of Trustees of the Fund, inter alia through the preparation, production and dissemination of information materials, in its efforts to make the Fund and its humanitarian work better known and in its appeal for contributions.

General Assembly resolution 39/113
14 December 1984 Meeting 101 Adopted without vote
Approved by Third Committee (A/39/700) without vote, 6 December (meeting 45); 16-nation draft A/C.3/39/L.75; agenda item 12.
Sponsors: Australia, Brazil, Costa Rica, Cyprus, Denmark, Finland, France, Germany, Federal Republic of, Greece, Iceland, Kenya, Mexico, Netherlands, Norway, Sweden, United States.
Meeting numbers: GA 39th session; 3rd Committee 61,64, plenary 101.