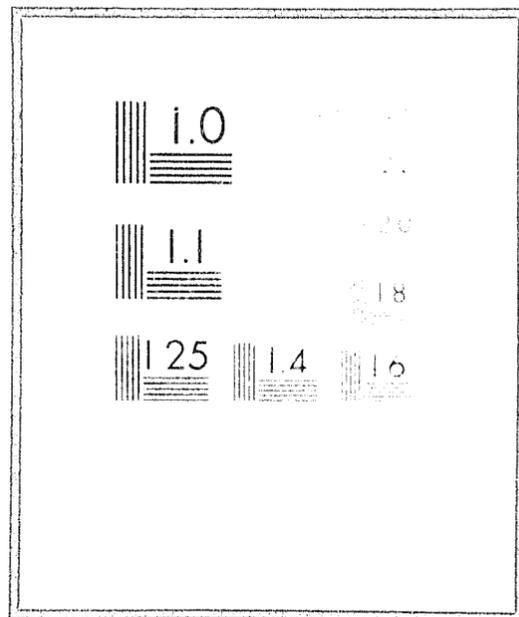


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U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
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## FIFTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

GENEVA  
1-12 SEPTEMBER 1975

34269

PROPOSALS SUBMITTED BY  
Amnesty International

## INTRODUCTION

Torture today is not merely the occasional lapse of legal restraints in a few isolated instances.

It is clear from the mass of evidence gathered by Amnesty International over the past 14 years that -- in flagrant violation of Article 5 of the Universal Declaration of Human Rights -- torture is employed systematically in many countries all over the world to gain information, force confessions and terrorize the general population into unquestioning obedience to the ruling power.

What is equally clear is that torture is not the sole province of officially-sanctioned police or military interrogators but often is furthered and supported through the complicity of doctors, lawyers, judges and others.

Doctors are often called in not just to minister to victims but to revive them for further torture. The legal system abets torture by rejecting pleas of torture as inadmissible and convicting victims on the basis of confessions extracted under torture.

Newspaper exposures and testimonies from victims around the world have brought to light another frightening aspect of torture today: international cooperation among torture states and the routine training of military, police and prison personnel in methods of interrogation that can be described as torture.

In December 1972, appalled by the mounting evidence of torture throughout the world, Amnesty International launched a worldwide Campaign for the Abolition of Torture. In the words of Seán MacBride, SC, then Chairman of Amnesty International's International Executive Committee, the object of the campaign was to make torture "as unthinkable as slavery".

A year later saw publication of the 224-page *Amnesty International Report on Torture* which gave details of torture allegations made against some 65 countries during the previous 10-year period. The report demonstrated that torture is not limited to countries of any particular political ideology or geographical area but is a disturbingly universal practice.

On 10 December 1973, the 25th anniversary of the promulgation of the Universal Declaration of Human Rights by the United Nations, Amnesty International opened a two-day conference in Paris on torture which was attended by 250 participants from all parts of the world.

The conference branded torture as a crime against humanity and recommended a sweeping range of measures for its abolition. These included full implementation of the Standard Minimum Rules for the Treatment of Prisoners and international machinery with built-in enforcement provisions to ensure that the rule of law would be brought to bear on practitioners of torture.

Equally important, the conference decided, was the need to formulate codes of ethics and conduct for all those whose professional skills might be perverted in the service of torture: doctors, lawyers, prison officers, military personnel and police.

Since the Paris Conference for the Abolition of Torture, Amnesty International, with the help of sympathetic governments and governmental and non-governmental organizations, has worked through the United Nations and other bodies to implement these recommendations.

Such international cooperation has already resulted in the adoption by the United Nations General Assembly on 6 November 1974 of Resolution 3218 (XXIX). This expressed the conviction that "further and sustained efforts are necessary to protect

under all circumstances the basic human right to be free from torture and other cruel, inhuman or degrading treatment or punishment" and called upon the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders "to give urgent attention to the question of the development of an international code of ethics for police and related law enforcement agencies."

The resolution further requested the Congress "to include, in the elaboration of the Standard Minimum Rules for the Treatment of Prisoners, rules for the protection of all persons subjected to any form of imprisonment against torture and other cruel, inhuman or degrading treatment or punishment, and to report thereon to the General Assembly at its 30th session."

Amnesty International is submitting the following proposals to the Congress in the belief that, as recognized by Resolution 3218 (XXIX), far more is needed now than a reaffirmation of existing legal principles regarding the humane treatment of detainees and prisoners.

Amnesty International believes that firm action by the Congress on its proposals will lead to the concrete international measures necessary to protect all persons taken into custody from being subjected to the barbarism of torture.

## AMNESTY INTERNATIONAL

### SUMMARY OF PROPOSALS TO THE FIFTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS GENEVA, 1-12 SEPTEMBER 1975

1. The Congress should formally endorse the relevant principles of the *Draft Principles on Freedom from Arbitrary Arrest and Detention* and *resolution 7 (XXVII)* of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and recommend their incorporation into national law.
2. The Congress should recommend to the General Assembly that it declare torture to be a crime under international law, that it authorize a body to create a draft convention on the suppression of torture and the protection of all prisoners, and that this draft convention incorporate relevant provisions and principles of the *Draft Principles on Freedom from Arbitrary Arrest and Detention, resolution 7 (XXVII)* of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, and that it contain enforcement mechanisms.
3. The Congress should establish a list of general basic provisions and principles which any and all codes of ethics for police and related law enforcement personnel and agencies, including military bodies, must contain, and forward it to the Economic and Social Council (ECOSOC) and the General Assembly for their endorsement and action.
4. The Congress should establish a list of general basic provisions and principles which any and all codes of ethics for persons involved in the medical profession should contain, relevant to preventing torture, and forward it to ECOSOC and the General Assembly, the World Health Organisation and UNESCO, for their endorsement and action.
5. The Congress should ratify and send to ECOSOC for endorsement an authoritative interpretation of the *Standard Minimum Rules*, as they are now written, which confirms the fact that they apply to all persons deprived of their freedom, regardless of whether criminal charges have been lodged against them.
6. The Congress should recommend to ECOSOC and the General Assembly that the portion of the mandate of the Committee on Crime Prevention and Control relating to the *Standard Minimum Rules* and rehabilitation be given to a new committee on the treatment of prisoners, which would be created in a similar fashion and parallel to the Committee on Crime Prevention and Control in terms of independence and relation to the Commission on Social Development. Both of these committees should then be allowed to meet annually and to receive sufficient servicing from the Secretariat.
7. The Congress should consider recommending that the United Nations Secretary-General be given authority to ensure investigation of reliably attested allegations of gross violations of the *Standard Minimum Rules*.
8. The Congress should urge the United Nations Secretary General to ensure the widest possible dissemination of the *Standard Minimum Rules*.

The above proposals are explained and justified in detail in the following pages.

*No one shall be subjected to torture or to cruel, inhuman or  
degrading treatment or punishment*

Article 5, Universal Declaration of Human Rights

By its statute, Amnesty International is charged with securing "throughout the world the observance of the provisions of the Universal Declaration of Human Rights". It does so by:

- (a) Irrespective of political consideration, working towards the release of, and providing assistance to, persons who, in violation of the aforesaid provisions, are imprisoned, detained, restricted or otherwise subjected to physical coercion or restriction by reason of their political, religious or other conscientiously held beliefs, or by reason of their ethnic origin, colour or language, provided that they have not used or advocated violence (hereinafter referred to as "prisoners of conscience");
- (b) Opposing by all appropriate means the detention of any prisoners of conscience or any political prisoners without trial within a reasonable time or any trial procedures relating to such prisoners that do not conform to recognized norms to ensure a fair trial;
- (c) Opposing by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons, whether or not they have used or advocated violence

Amnesty International was originally founded to work for the release of prisoners of conscience. That work, however, led to the realization that prisoners, particularly political prisoners, are being subjected to torture and other ill-treatment on a widespread scale, without geographic limitation. Nor does the range of techniques available to destroy the will of human beings have any limits. Such techniques may be physical, with or without technological assistance (eg the use of high-pitched sounds), or a mixture of both, such as the threat of physical harm to others, sleep deprivation and so on. It may also be that certain modern kinds of centers of detention, built to reasonable standards of comfort and sanitation, together with optimum security considerations, might, as a side effect, conduce to the sort of sensory deprivation that is a recognized technique of depersonalization.

That the international community is pledged to secure the abolition of torture is clear. Article 5 of the Universal Declaration of Human Rights is quoted above. Similarly, the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the European Convention on Human Rights all restate the right not to be subjected to torture. Indeed, these treaties prevent any derogation from that right, even in time of public emergency. Furthermore, the Geneva Conventions on the Protection of Victims of War, of 12 August 1949, go as far as to prohibit torture in situations of non-international armed conflict, as well as during international armed conflict. The United Nations General Assembly has also turned its attention to the problem of torture, the use of which the Amnesty International Conference for the Abolition of Torture (Paris, 10-11 December 1973) declared "must be identified as a crime against humanity".

Thus, General Assembly resolution 3059 (XXVIII), passed unanimously on 2 November 1973, rejected any form of torture and cruel, inhuman or degrading treatment or

punishment. The recent passage of General Assembly resolution 3218 (XXIX), of 6 November 1974 (see Appendix I), has further emphasized that body's preoccupation with the matter. The latter resolution, adopted with no opposing votes and only one abstention, is entitled *Torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment* and it refers this problem to the Fifth United Nations Congress under several general subjects which follow.

## I Matters Arising out of General Assembly Resolution 3218 (XXIX)

### A. General Principles for the Prohibition and Prevention of Torture.

#### 1. NATIONAL LAW

The first subject (General Assembly resolution 3218, operative paragraph 2) comes before this Congress as a Secretariat analysis of observations and comments made by United Nations member states on articles 24, 25, 26 and 27 of the *Draft Principles on Freedom from Arbitrary Arrest and Detention* (see Appendix II). These Draft Principles contain an explicit listing of specific interrogation techniques which should be forbidden (article 24[1]), the judicial responses which experience has shown help to discourage interrogators from employing such techniques (article 24[2]), some rules for enforcing the individual's right not to incriminate him/herself (article 25), other rules for avoiding police abuse of power in these respects by removing the prisoner from direct police custody during the period of pre-trial detention (article 26) and a reference to the applicability of the United Nations' *Standard Minimum Rules for the Treatment of Prisoners* in all these circumstances (article 27). Amnesty International holds that the *Draft Principles on Freedom from Arbitrary Arrest and Detention* are long overdue for incorporation in national law. In addition, Amnesty International has learned from its experience investigating innumerable cases of torture that this gross violation of fundamental human rights is most likely to occur in the few hours or days immediately following the arrest or detention of the individual. For this reason, articles 10, 11 and 12 of the Draft Principles could also serve as an important measure to minimize the possibilities of such maltreatment, by requiring that detainees be removed from isolation or detention incommunicado, where they are sometimes under the virtually unlimited powers and discretions of their interrogators, and brought before a presumably neutral and detached judicial authority. The importance of such a neutral person being in a position merely to verify the physical and psychological well-being of prisoners, let alone also ruling on the course of their future detention, cannot be ignored.

In a similar fashion, the preamble to *resolution 7 (XXVII)* of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (see Appendix III), passed in August 1974, enumerates many basic human rights which should be enjoyed by all persons subjected to any form of detention or imprisonment for any reason whatsoever. These too deserve incorporation in national law in order to protect and preserve the rights of detainees.

It is PROPOSED that the Congress endorse the principles enunciated by articles 10, 11, 12, 24, 25, 26 and 27 of the *Draft Principles on Freedom from Arbitrary Arrest and Detention* and resolution 7 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and urge their incorporation into the national law of all states.

(AGENDA ITEM 2)

## 2. INTERNATIONAL LAW

It is important that the above principles not only be incorporated in all national legal systems, but that they further find their expression at international law. In this connection, attention is drawn to operative paragraph 4 of General Assembly resolution 3218, which refers to this Congress the question of the elaboration of the *Standard Minimum Rules for the Treatment of Prisoners*, in order to create rules for the protection of all persons subjected to any form of detention or imprisonment from torture and other cruel, inhuman or degrading treatment or punishment. This Congress, and then the United Nations, should follow the recommendation contained in paragraph 198(3)(c) of the report of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which took place in Kyoto, Japan, in 1970. That recommendation suggested "dividing the Standard Minimum Rules into a general part, containing a more refined statement of the basic principles, which might form an international convention". This would complement the Standard Minimum Rules themselves, which are already considered as forbidding torture.

Following this suggestion, and in keeping with paragraph 39 of the report of the Committee on Crime Prevention and Control on its Third Session (E/CN.5/516), which categorized torture as a major transnational crime,

It is PROPOSED that the Congress should:

- (a) Recommend that the General Assembly declare torture to be a crime under international law;
- (b) Recommend that the General Assembly instruct the Secretary-General to appoint a committee or working group of experts, upon the advice of the Commission on Social Development and the Commission on Human Rights, to prepare a draft convention on the suppression of torture and the protection of all prisoners, to be considered for adoption by the General Assembly;
- (c) Recommend that the draft convention adopt the relevant principles and provisions of the Standard Minimum Rules, the Draft Principles on Freedom from Arbitrary Arrest and Detention and resolution 7 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;
- (d) Recommend that the draft convention contain provisions for ensuring the implementation of its measures.

(AGENDA ITEMS 1 AND 4)

### B. International Code of Ethics for the Police

A further subject which resolution 3218 (operative paragraph 3) brings before this Congress is the development of an international code of ethics for police and related law enforcement agencies. The Assembly resolution, requesting urgent attention to be given to this matter, confirms the view of Amnesty International that the establishment and circulation of such a code, containing appropriate provisions on basic humanitarian and moral obligations relevant to law enforcement work, would be an important standard-setting and educational device for all law enforcement personnel.

Amnesty International believes that such a code should include the following basic provisions and principles:

- (a) Police and related agencies are obliged by law to maintain order and

public security, prevent law violations and apprehend law-breakers. The responsibility of the police forces for securing these objectives, however, cannot be unlimited. As agents of the state, they have, at the same time and equal to their primary obligations, a duty to maintain and promote human rights, as described in the Universal Declaration of Human Rights, in the principles of which they should receive proper education and training.

(b) A police code of ethics should apply to all those individuals and organizations, including secret services, military police, armed forces or militia acting in policing capacities, or others engaged in enforcing the law, investigating violations, maintaining public order, or preserving state security.

(c) Certain actions, especially including summary executions, torture, or other cruel, inhuman or degrading treatment, must be prohibited under any and all circumstances, including the greatest emergencies of civil strife or war.

(d) Police officers and all others covered by the code have a moral duty (as defined under the conditions of Principle IV of the Nuremberg Tribunal, unanimously adopted by resolution 95(1) of the United Nations General Assembly, 11 December 1946) to disobey or disregard any order, instruction or command, even if lawfully made within the context of national legislation, which is in clear and significant contradiction to basic and fundamental human rights as described in the Universal Declaration of Human Rights. Orders and legislative authority to torture, summarily execute, or to arrest and lengthily detain without substantive judicial supervision, all would come under this moral duty.

(e) Police and other officials who are detaining persons should follow the instructions of doctors or other competent medical workers when, for the preservation of the good health of a detainee, the doctor or medical worker places the detainee under his personal medical custody.

(f) Those covered by the code should have an affirmative obligation to make publicly known, or to inform proper national or international bodies, of those activities which are in direct contravention of the principles and provisions of the code of ethics, or in gross violation of fundamental human rights.

(g) No officer or agent should suffer administrative or other penalties as a result of action taken to resist orders or laws inconsistent with the principles and provisions of the code.

(h) There should be a personal and corporate duty upon all officers and other professionals or persons covered by the provisions of the code, and their professional, workers', trade union or other employees' organizations, to offer support to all those who are in need of such as a result of their adherence and allegiance to the principles and provisions of the code.

(i) Any organization or body, national or international, which adopts, proposes, or promulgates the code, should maintain some mechanism for hearing appeals from those covered by the code who claim that any of its provisions have been violated.

(j) There should be established a clear chain-of-command responsibility whereby superior officers, civilian or military, are personally liable for acts

of commission and omission in connection with acts of torture and other ill-treatment.

It is PROPOSED that the Congress review the above principles and provisions, (a) through (j), which a police code of ethics should contain, and recommend them to ECOSOC for consideration and final approval by the General Assembly, as the standard suggested and necessary for such a code, whenever and however it may finally be adopted. The United Nations should ensure the widest possible dissemination of such a code to ministers of justice, defence and interior, law enforcement agencies, prison authorities, etc. (AGENDA ITEM 3)

### C. International Code of Medical Ethics

The final item which resolution 3218 (operative paragraph 5) brings before the Congress is the question of a medical code of ethics relevant to protecting persons subjected to any form of detention or imprisonment from torture and cruel, inhuman or degrading treatment or punishment. Amnesty International is aware of many cases where doctors or other medical personnel actively take part in torturing individuals, or subjecting them to other cruel or inhuman treatment. A code establishing adequate guides with respect to medical conduct in those circumstances should contain the following basic provisions and principles.

(a) The code should apply not just to doctors and nurses, but to all others who are employed for the purposes of promoting health or whose tasks include health care, such as para-medical personnel, orderlies, pharmacists and hospital administrators.

(b) The first and only duty of those covered by the code must be the well-being and care of their patients. Those covered by the code must insist that they be employed by, and responsible to, an authority independent from that actually detaining prisoners.

(c) When the health care of a prisoner requires such action, those covered by the code must place the prisoner under their personal medical custody, as long as such direct supervision of the prisoner's well-being is required.

(d) In no circumstances should any person covered by the code in any way assist other persons in torture or other cruel, inhuman or degrading treatment or punishment.

(e) Those covered by the code should receive education in the whole area of human rights, with particular reference to the rights of their patients at national and international law.

(f) Those covered by the code must diligently avoid abuse of their special powers to commit or detain persons in mental hospitals, or behaviour modification programs, especially to avoid due process of law or to serve as punishment. Such powers should, in any event, be restricted to preventing an imminent threat of direct harm to others.

(g) Those covered by the code have an affirmative obligation to make publicly known, or to inform proper national and international bodies of, any activities which inflict torture or other cruel, inhuman or degrading treatment upon anyone, or which grossly violate fundamental human rights.

(h) No one covered by the code should suffer administrative, disciplinary

or other penalties as a result of action taken to expose the practices condemned above, or for the refusal to participate in them.

(i) There should be a personal and corporate duty upon any person covered by this code and any professional, workers', trade union or other association connected with the medical profession to offer support to all those who are in need of such as a result of their adherence and allegiance to the principles and provisions of the code.

(j) Any organization or body, national or international, which adopts, proposes or promulgates the code, should maintain some mechanism for hearing appeals from those covered by the code, claiming that any of its provisions have been violated.

It is PROPOSED that the Congress review the relevant principles and provisions which a medical code must contain, as illustrated in (a) through (j) above, and recommend them to ECOSOC, WHO and UNESCO for final approval, including adoption by the General Assembly as the standard suggested and necessary for such codes, whenever and however they are finally adopted. The United Nations should ensure the widest possible dissemination of such a code to ministers of health, hospitals, medical practitioners and their representative organizations.

(AGENDA ITEMS 4 AND 5)

## II The Standard Minimum Rules for the Treatment of Prisoners

As to the traditional concern of the Congress with the treatment of offenders and the *Standard Minimum Rules*, Amnesty International has four proposals for the United Nations Congress. The first deals with the substance of the Rules as they are now written and the remainder deal with methods for furthering their implementation.

### A. Interpreting the Standard Minimum Rules

There has been much discussion over the years as to whether the Rules, particularly rule 4(1) and rule 84(1), extend coverage to any person "deprived of his freedom regardless of whether a criminal charge had been lodged against him". (Para. 153, Kyoto report, *supra*.)

It is PROPOSED that the Congress, as the body responsible for the creation of the Standard Minimum Rules, ratify, and request that ECOSOC endorse, a formal interpretation of the Rules as they are now written, which states that they presently cover all detainees in all circumstances, regardless of the presence or absence of any criminal or other charges, the nature of the detaining body (police, military, etc), or the nature of the institution of detention (prison, police station, military barracks, medical hospital, etc).

(AGENDA ITEM 4)

Such an official interpretation would establish beyond debate the meaning of the Rules in this area and would have the advantage of avoiding the problems in changing the Rules which result from the fact that many states have already incorporated them into their national legislation.

## B. Implementing the Standard Minimum Rules

### 1. ADMINISTRATION

In its last report on its meeting in Ohio, in November 1974, the Working Group of Experts on the Standard Minimum Rules, created by the Fourth United Nations Congress, emphasized the need for a permanent body to keep the Rules, and especially their proposed introduction and commentary, in tune with changes in the field, and the even greater need to implement the Rules effectively around the globe through a far-ranging set of activities. Though the United Nations General Assembly has twice recommended the Rules for implementation by member states, in resolution 2858 (XXVI) of 1971 and resolution 3144B (XXVIII) of 1973, nonetheless the only body in the UN formally charged with supervising implementation of the Rules at the present time is the Committee on Crime Prevention and Control, which is already overburdened with many other social defence considerations, in addition to the Standard Minimum Rules and the treatment of offenders. Furthermore, by ECOSOC instruction, the Committee is presently restricted to meeting biennially and it cannot form any interim sub-committees.

It is PROPOSED that the Congress recommend to ECOSOC and to the General Assembly that the Committee on Crime Prevention and Control continue its present tasks, but that a new committee on the treatment of prisoners be established, parallel to it and with a similar structure, to handle those aspects of social defence regarding the Standard Minimum Rules and rehabilitation generally that were previously part of the work of the Committee on Crime Prevention and Control.

(AGENDA ITEM 4)

This would result in two committees, both composed of individuals working in their personal capacity, both under the aegis of the Commission on Social Development, pursuing in tandem the two parallel areas that the UN Congresses themselves advise on every five years. This recommendation should stress that these committees be allowed to meet annually and be given adequate Secretariat servicing to pursue their tasks.

### 2. INVESTIGATION

In addition, the Congress may wish to consider the possibility of strengthening the machinery of international fact-finding and disclosure. It should here be borne in mind that there is a special degree of urgency in dealing with alleged instances of torture that does not admit of delay without risking the most serious consequences of irreversible damage. In this connection, the welcome decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to review annually the developments in the field of human rights of persons subjected to any form of detention or imprisonment -- a decision noted with appreciation by General Assembly resolution 3218 (XXIX) -- does not represent the kind of immediate protection demanded by the possible situations. On the other hand, rapid action undertaken by the Secretary General of the United Nations could be decisive.

It is PROPOSED that the Congress might recommend that the Secretary General of the United Nations be given authority, through the General Assembly or otherwise, to appoint and service fact-finding commissions which would be charged with investigating and reporting on reliably attested allegations of gross violations of the Standard Minimum Rules for the Treatment of Prisoners.

(AGENDA ITEM 4)

### 3. DISSEMINATION

In the final analysis, no effective application of the Standard Minimum Rules can be expected without the widest possible familiarity with their contents. They should be available in all the official languages of the United Nations and be distributed to all governments, ministries of the interior, prison authorities, prisoners, prisoners' and ex-prisoners' organizations, etc, as well as being available to all institutions and individuals who may request them.

It is PROPOSED that the Congress urge the Secretary General of the United Nations to ensure the widest possible publication and dissemination of the Standard Minimum Rules for the Treatment of Prisoners, with a view to securing greater knowledge of them amongst governments, prisoners and the public at large.

(AGENDA ITEM 4)

RESOLUTION 3218 (XXIX)  
ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS  
ON 6 NOVEMBER 1974

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR  
PUNISHMENT IN RELATION TO DETENTION AND IMPRISONMENT

## THE GENERAL ASSEMBLY,

Mindful of article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights,<sup>1</sup>

Reaffirming the rejection, in its resolution 3059 (XXVIII) of 2 November 1973, of any form of torture and other cruel, inhuman or degrading treatment or punishment,

Taking into account the report of the Secretary-General on the consideration given to this question by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and by the Commission on Human Rights and other bodies concerned,<sup>2</sup>

Noting with appreciation the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to review annually the developments in the field of human rights of persons subjected to any form of detention or imprisonment,<sup>3</sup>

Noting also the draft principles on freedom from arbitrary arrest and detention contained in the relevant study on this matter,<sup>4</sup>

Recalling Economic and Social Council resolution 663 C (XXIV) of 31 July 1957, in which, *inter alia*, the Council approved the Standard Minimum Rules for the Treatment of Prisoners,<sup>5</sup> and Council resolution 1794 (LIV) of 18 May 1973 concerning the preparation of an international code of police ethics, as well as General Assembly resolution 3144 (XXVIII) of 14 December 1973 on human rights in the administration of justice,

Considering that the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held in accordance with General Assembly resolution 415 (V) of 1 December 1950, will take place in September 1975 at Toronto, Canada,

Convinced that, because of the increase in the number of alarming reports on torture, further and sustained efforts are necessary to protect under all circumstances the basic human right to be free from torture and other cruel, inhuman or degrading treatment or punishment,

1. Requests Member States to furnish the Secretary-General in time for submission to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to the General Assembly at its thirtieth session:

(a) Information relating to the legislative, administrative and judicial measures, including remedies and sanctions, aimed at safeguarding persons within their jurisdiction from being subjected to torture and other cruel, inhuman or degrading treatment or punishment;

(b) Their observations and comments on articles 24 to 27 of the draft principles on freedom from arbitrary arrest and detention prepared for the Commission on Human Rights;

2. Requests the Secretary-General to prepare an analytical summary of the information received under paragraph 1 above for submission to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to the General Assembly

at its thirtieth session, to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

3. Requests the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under item 3 of its agenda,<sup>6</sup> taking into account the consideration given to the question by the Committee on Crime Prevention and Control in pursuance of Economic and Social Council resolution 1794 (LIV), to give urgent attention to the question of the development of an international code of ethics for police and related law enforcement agencies;

4. Further requests the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under item 4 of its agenda,<sup>6</sup> to include, in the elaboration of the Standard Minimum Rules for the Treatment of Prisoners, rules for the protection of all persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment, and to report thereon to the General Assembly at its thirtieth session;

5. Invites the World Health Organization, taking into account the various declarations on medical ethics adopted by the World Medical Association, to draft, in close cooperation with such other competent organizations, including the United Nations Educational, Scientific and Cultural Organization, as may be appropriate, an outline of the principles of medical ethics which may be relevant to the protection of persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment, and to bring the draft to the attention of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders with a view to assisting the Congress in the implementation of the task set out in paragraph 4 above;

6. Decides to consider at its thirtieth session the question of torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment.

1. General Assembly resolution 2200 A (XXI), annex.

2. A/9767.

3. *Ibid.*, annex I.

4. See United Nations publication, Sales No.:E.65.XIV.2, para. 823.

5. *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat* (United Nations publication, Sales No.:1956.IV.4), annex I.A.

6. A/CNRF.56/INF.3, para.15.

## APPENDIX II

COMMISSION ON HUMAN RIGHTS  
U.N. Document E/CN. 4/1044

## DRAFT PRINCIPLES ON FREEDOM FROM ARBITRARY ARREST AND DETENTION

## Article 10

1. A person who is arrested shall be brought promptly, and in any case not later than twenty-four hours from the time of his arrest, before a judge or other officer authorized by law to exercise judicial powers. The law may provide that the time absolutely neces-

sary for the journey from the place of arrest to the place where the competent authority is located shall not be counted.

2. The time-limit prescribed above may not be extended except upon the written authorization of the judge or other officer authorized by law to exercise judicial powers. The extension may be granted only once, for a period not exceeding twenty-four hours, upon a showing of good and sufficient cause. The authorization must state the reasons for the extension and these must be communicated to the arrested person.

#### Article 11

If the arrested person is not brought before the judge or other officer authorized by law to exercise judicial powers within the specified time-limit, his detention shall become illegal and he shall be released forthwith.

#### Article 12

The judge or other officer authorized by law to exercise judicial powers before whom the arrested person is brought shall, within twenty-four hours, decide whether to release him or order his continued custody.

#### Article 24

1. No arrested or detained person shall be subjected to physical or mental compulsion, torture, violence, threats or inducements of any kind, deceit, trickery, misleading suggestions, protracted questioning, hypnosis, administration of drugs or any other means which tend to impair or weaken his freedom of action or decision, his memory or his judgement.

2. Any statement which he may be induced into making through any of the above prohibited methods, as well as any evidence obtained as a result thereof, shall not be admissible in evidence against him in any proceedings.

3. No confession or admission by an arrested or detained person can be used against him in evidence unless it is made voluntarily in the presence of his counsel and before a judge or other officer authorized by law to exercise judicial power.

#### Article 25

No one may be required to incriminate himself. Before the arrested or detained person is examined or interrogated, he shall be informed of his right to refuse to make any statement.

#### Article 26

The arrested person shall not be kept in police custody after he is brought before the competent authority as provided in article 10. The officials responsible for this custody shall be entirely independent of the authorities conducting the investigation.

#### Article 27

1. Pre-trial detention not being a penalty, the imposition of any restrictions or hardships not dictated by the necessities of the inquiry or the maintenance of order in the place of detention, together with all vexatious treatment, shall be forbidden.

2. The treatment accorded to the arrested or detained person, whether in police custody or in prison custody, must not be less favourable than that stipulated by the "Standard Minimum Rules for the Treatment of Prisoners".

3. Inspectors shall be appointed by judicial authorities to supervise all places of custody and to report on the management and treatment of arrested and detained persons therein.

## APPENDIX III

### COMMISSION ON HUMAN RIGHTS: SUBCOMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Twenty-seventh session - 5 - 23 August 1974

#### THE QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT RESOLUTION 7 (XXVII)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Gravely concerned at numerous reports that violations of the basic human rights of persons detained or imprisoned persist in various parts of the world,

Believing that persons subjected to any form of detention or imprisonment for any reason whatsoever should enjoy at least the following basic human rights: the right not to be subjected to arrest or detention arbitrarily; the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; the right to be treated with humanity and with respect for the inherent dignity of the human person; the right to equal protection of the law, without any discrimination; the right to be informed of the reasons or grounds of the arrest or detention; the right to be brought promptly before a court and to have a trial within a reasonable time; the right to communicate with legal counsel; the right to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; the right to have free assistance of an interpreter if he cannot understand or speak the language used in court; the right not to be compelled to testify against himself or to confess his guilt; the right to a fair and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty according to law; and the right not to be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law at the time when it was committed, nor to get a heavier penalty than the one that was applicable at the time when the criminal offence was committed.

Considering that although States may, in time of public emergency which threatens the life of the nation, take measures derogating from certain rights under certain conditions, article 4, paragraph 2, of the International Covenant on Civil and Political Rights, nevertheless prohibits derogation of the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Noting that torture and other forms of cruel, inhuman or degrading treatment and punishment are flagrant violations of human rights that continue to occur notwithstanding their rejection by the General Assembly in resolution 3059 (XXVIII), and that all available information suggests that in several countries there may be a consistent pattern of such violations,

1. Decides to review annually developments in the field and for this purpose to retain the item on its agenda. In reviewing those developments the Sub-Commission will take into account any reliably attested information from Governments, the specialized

agencies, the regional inter governmental organizations and the non-governmental organizations in consultative status with the Economic and Social Council concerned, provided that such non-governmental organizations act in good faith and that their information is not politically-motivated, contrary to the principles of the Charter of the United Nations;

2. Requests the Secretary-General to transmit to the Sub-Commission the information referred to in paragraph 1 above.

**END**