

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The question of torture or other cruel, inhuman or degrading treatment or punishment was included in the agenda of the twenty-ninth session of the General Assembly, in 1974, and was submitted for consideration to the Third (Social, Humanitarian and Cultural) Committee. The Committee, on 22 October 1974, adopted a draft resolution on torture or other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment in which the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was asked to include, in the elaboration of the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council on 31 July 1957, 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 Assembly in 1975. The draft resolution was submitted to the General Assembly and on 6 November 1974, on the recommendation of the Third Committee, the Assembly adopted resolution 3218 (XXIX).

The above-mentioned Congress was held in Geneva, from 1 to 12 September 1975. In a report submitted to the General Assembly (U.N.P. Sales No.: E.76.IV.2) at its thirtieth session, as also requested by resolution 3218 (XXIX), the Secretary-General summarized the debates and proposals of the Congress and included the text, approved by the Congress, of a Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/10260).

The matter was on the agenda of the General Assembly at its thirtieth session, in 1975, and was again allocated to the Third Committee. On 9 December 1975, the General Assembly adopted without a vote resolution 3452 (XXX), to which the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was annexed. On the same date, the General Assembly also adopted resolution 3453 (XXX), in which it expressed its appreciation to the Fifth Congress for the elaboration of the declaration and requested competent bodies to conduct further work for the elaboration of several instruments relating to the question of torture.

The item entitled "Torture and other cruel, inhuman or degrading treatment or punishment" was again on the agenda of the General Assembly at its thirty-first and thirty-second sessions. At the latter session, on 8 December 1977, the General Assembly adopted resolution 32/62, in which, expressing its belief that further international efforts were needed to ensure adequate protection for all against torture and other cruel, inhuman or degrading treatment or punishment, and considering that a further significant step would be the adoption of an international convention on the matter, it requested the Commission on Human Rights to draw up a draft convention, in the light of the principles embodied in the Declaration and to submit a progress report to the Assembly at its thirty-third session.

At its 1978 session, the Commission on Human Rights accordingly set up an open-ended working group to consider the alternative drafts for an international convention against torture and other cruel, inhuman or degrading treatment or punishment that had been prepared by Sweden (E/CN.4/1285) and by the International Association of Penal Law (E/CN.4/NGO/213). On 7 March 1978, the Commission adopted resolution 18 (XXXIV), by which it took cognizance of the report of the working group, and requested the Secretary-General to transmit all the relevant documents of the Commission on the topic to Governments of Member States and

members of the specialized agencies for their comments and to prepare a summary of the comments received. The Commission on Human Rights further 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 constituting the Commission's progress report. At the same session, the Commission also proposed a draft decision for adoption by the Economic and Social Council, by which the Council would authorize the holding of a meeting of a working group, open to all members of the Commission, for one week before the Commission's 1979 session in order to prepare concrete proposals for the draft convention. In addition, the Commission decided that the working group concerned with analyzing alternative approaches and ways and means within the United Nations system for the promotion and encouragement of human rights and fundamental freedoms should combine this, its principal task, with the work on the draft convention (E/1978/34).

On 5 May 1978, the Economic and Social Council adopted, without a vote, decision 1978/24, by which it approved the Commission on Human Rights' recommendation concerning the pre-session working group meeting. It also decided to request the Secretary-General to transmit to the General Assembly the Commission's resolution concerning the draft convention, together with the relevant chapter of the Commission's report.

At the thirty-third session of the General Assembly, in 1978, the item relating to torture or other cruel, inhuman or degrading treatment or punishment was again referred to the Third Committee for consideration. On 20 December 1978, on the recommendation of the Third Committee, the General Assembly adopted resolution 33/178, in which it took note of the progress report of the Commission on Human Rights and requested it to give high priority, at its following session, to the question of drafting a convention on torture.

In 1979, the Working Group accordingly met prior to the session of the Commission on Human Rights. It continued to meet prior to and during the sessions of the Commission in the following years up to 1984, on the basis of authorizations given annually by the Economic and Social Council, on the recommendation of the Commission on Human Rights, for the purpose of completing the drafting of the convention (see Economic and Social Council resolutions 1979/35, 1980/32, 1981/37, 1982/38, and 1983/38). Also on a yearly basis, the General Assembly took note of the progress in the work of the Commission and renewed its request to the Commission on Human Rights to complete, as a matter of urgency, the drafting of the convention (resolution 34/167 of 17 December 1979, resolution 35/178 of 15 December 1980, resolution 36/60 of 25 November 1981, resolution 37/193 of 18 December 1982, and resolution 38/119 of 16 December 1983).

The Working Group used the draft convention proposed by Sweden (E/CN.4/1285) as the basis of its work. At its last session, held between 30 January and 16 February 1984, it adopted all articles of the draft convention, except two (articles 19 and 20) concerning reporting by State parties and considerations of the reports by the Committee against Torture and the authorization of the Committee to initiate an inquiry in connection with reliable indications that torture was being systematically practised in the territory of a State party. The draft convention, as provisionally adopted, was annexed to the Working Group's report (E/CN.4/1984/72) and submitted to the Commission on Human Rights. The Commission on Human Rights, having examined the Working Group's report, adopted resolution 1984/21 of 6 March 1984, by which it decided to transmit the draft convention 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 also requested the Secretary-General to bring the documents mentioned to the attention of

Governments and to obtain their comments, preferably for submission to the Assembly at its following session.

On 24 May 1984, the Economic and Social Council adopted, without a vote, decision 1984/134 by which, noting the above-mentioned resolution of the Commission on Human Rights, it decided to transmit to the General Assembly the report of the Working Group, as well as the summary records of the Commission's debate on the question during its fortieth session. The Economic and Social Council further noted the Commission's request to the Secretary-General to submit the comments received from Governments on the draft convention to the General Assembly, and its recommendation that the Assembly consider the draft convention as a matter of priority, with a view to its early adoption.

At the thirty-ninth session of the General Assembly, in 1984, the draft convention, together with the comments submitted by Governments (see A/39/499 and Add. 1 and 2) was considered by the Third Committee. Informal consultations on the drafting of articles 19 and 20 took place prior to and contemporaneously with the meetings of the Committee, which were held from 19 to 28 November 1984. The initial draft resolution was amended several times and was finally adopted by the Third Committee on 5 December 1984, without a vote.

On 10 December 1984, the General Assembly, acting on the recommendation of the Third Committee, adopted without a vote resolution 39/46, by which it adopted and opened for signature the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annexed to the resolution. The Convention entered into force on 26 June 1987, in accordance with its article 27, paragraph 1, following the deposit of the twentieth instrument of ratification.