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DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. Hannu HALINEN

CONTENTS*

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
X. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: (a) Torture and other cruel, inhuman or degrading treatment or punishment; (b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (c) Question of enforced or involuntary disappearances; (d) Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment		1 - 99

* Documents E/CN.4/1995/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1995/L.11 and addenda.

- X. QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT; (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT; (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES; (d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
1. The Commission considered agenda item 10 and sub-items (a), (b), (c) and (d) at its 18th meeting, on 10 February 1995, at its 26th to 34th meetings, on 16 to 21 February, at its 53rd meeting, on 3 March, and at its 59th meeting, on 7 March 1995. 1/
 2. The Commission had before it the following documents:
 - Note verbale dated 10 May 1994 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, addressed to the Centre for Human Rights (E/CN.4/1995/6-E/CN.4/Sub.2/1994/42);
 - Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56);
 - Note verbale dated 12 July 1994 from the Permanent Mission of the State of Kuwait to the United Nations Office at Geneva, addressed to the Centre for Human Rights (E/CN.4/1995/9-E/CN.4/Sub.2/1994/44);
 - Note by the Secretary-General (E/CN.4/1995/30);
 - Report of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-4);
 - Promotion and protection of the right to freedom of opinion and expression: report of the Special Rapporteur Mr. Abid Hussain, pursuant to Commission on Human Rights resolution 1993/45 (E/CN.4/1995/32);
 - Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers: report of the Special Rapporteur, Mr. Param Kumaraswamy, submitted in accordance with the Commission on Human Rights resolution 1994/41 (E/CN.4/1995/39);
 - Detention of international civil servants and their families: updated report of the Secretary-General, prepared pursuant to Commission on Human Rights resolution 1994/42 (E/CN.4/1995/40);
 - Note by the Secretary-General (E/CN.4/1995/41);
 - Expert group meeting on children and juveniles in detention: application of human rights standards: report of the Secretary-General, submitted pursuant to Commission on Human Rights resolution 1993/80 (E/CN.4/1995/100);

Letter dated 27 January 1995 from the Ambassador, Chargé d'affaires, a.i., of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights (E/CN.4/1995/133);

Written statement submitted by the International Federation of Action of Christians for the Abolition of Torture, a non-governmental organization on the Roster (E/CN.4/1995/NGO/3);

Written statement submitted by the Commission of the Churches on International Affairs of the World Council of Churches, a non-governmental organization in consultative status (category II) (E/CN.4/1995/NGO/19);

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/1995/NGO/23);

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II) (E/CN.4/1995/NGO/37);

Report of the sessional working group on the administration of justice and the question of compensation (E/CN.4/Sub.2/1994/22);

Seventh revised annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, presented by Mr. Leandro Despouy (E/CN.4/Sub.2/1994/23 and Corr.1 and Add.1);

Final report prepared by Mr. Stanislav Chernichenko and Mr. William Treat (E/CN.4/Sub.2/1994/24);

Report by the Secretary-General (E/CN.4/Sub.2/1994/33);

Report of the Secretary-General (A/49/484 and Corr.1 and Add.1).

3. At the 18th meeting, on 10 February 1995, the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, Mr. Param Cumaraswamy, introduced his report (E/CN.4/1995/39) to the Commission.

4. At the same meeting, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, Mr. Louis Joinet, introduced his report (E/CN.4/1995/31 and Add.1-4) to the Commission.

5. At the 31st meeting, on 20 February 1995, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, introduced his report (E/CN.4/1995/32) to the Commission.

6. In the general debate on agenda item 10, statements were made by the following members of the Commission: Australia (32nd), Austria (31st), Bangladesh (30th), Bhutan (31st), Chile (32nd), Cuba (32nd), Ecuador (31st), Egypt (27th), El Salvador (32nd), France (on behalf of the European Union) (26th), India (32nd), Nepal (26th), Pakistan (31st and 32nd), Peru (32nd), Republic of Korea (31st), Russian Federation (31st), United States of America (26th) and Venezuela (30th).

7. The Commission also heard statements by the observers for: Cyprus (32nd), Norway (32nd), the Former Yugoslav Republic of Macedonia (30th), and Turkey (32nd).

8. The observer for Switzerland (32nd) made a statement.

9. The Commission also heard a statement by the observer for the International Committee of the Red Cross (31st).

10. The Commission also heard statements by the following non-governmental organizations: American Association of Jurists (31st), Amnesty International (28th), Andean Commission of Jurists (30th), Anti-Slavery International for the Protection of Human Rights (34th), Arab Organization for Human Rights (28th), Article 19: The International Centre against Censorship (28th), Commission for the Defense of Human Rights in Central America (31st), Federation of Associations of Former International Civil Servants (31st), France-Libertés: Fondation Danielle Mitterand (34th), International Association of Democratic Lawyers (31st), International Commission of Jurists (28th), International Committee for European Security and Cooperation (28th), International Falcon Movement (31st), International Federation of ACAT (34th), International Federation of Human Rights (28th), International Federation - Terre des Hommes (28th), International League for Human Rights (28th), International Union of Lawyers (31st), Liberation (31st), Pax Romana (28th), International League for the Rights and Liberties of Peoples (30th), International PEN (30th), Pax Christi International (30th), Robert F. Kennedy Memorial (34th), Society for Threatened Peoples (28th), World Movement of Mothers (30th) and World Press Freedom Committee (31st).

11. Statements in exercise of the right of reply or its equivalent were made by the representatives of Bangladesh (30th and 34th), China (34th),

Egypt (34th), Ethiopia (30th), India (28th and 32nd), Mauritania (34th), Pakistan (32nd) and the Republic of Korea (34th), and the observers for Honduras (32nd), the Islamic Republic of Iran (32nd), Kenya (34th), the Syrian Arab Republic (32nd) and Viet Nam (30th).

12. Statements in exercise of the second right of reply or its equivalent were made by the representatives of India (32nd) and Pakistan (32nd).

13. At the 53rd meeting, on 3 March 1995, the Commission took up consideration of draft decision 9, recommended to the Commission on Human Rights for adoption by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, sect. B).

14. The representative of Japan introduced draft amendment E/CN.4/1995/L.40 to draft decision 9, sponsored by Japan.

15. The draft amendment was adopted without a vote.

16. The draft decision, as amended, was adopted without a vote.

17. For the text as adopted see chapter II, section B, resolution 1994/110.

18. At the same meeting the representative of Chile introduced draft resolution E/CN.4/1995/L.44 sponsored by Argentina*, Bulgaria, Canada, Chile, Colombia, Costa Rica*, the Dominican Republic, Ecuador, France, Italy, the Netherlands, Nicaragua and Venezuela. Australia, Austria, China, Cuba, Finland, Hungary, Kuwait*, Latvia*, the Philippines, Poland, Portugal*, South Africa*, Sweden*, the United Kingdom of Great Britain and Northern Ireland and Uruguay* subsequently joined the sponsors.

19. The representative of Chile orally revised the draft resolution as follows: in the first preambular paragraph, the words "and the Vienna Declaration and Programme of Action," were added after "the field of human rights".

20. The draft resolution, as orally revised, was adopted without a vote.

21. For the text as adopted see Chapter II, section A, resolution 1995/34.

22. At the same meeting the observer for Belgium introduced draft resolution E/CN.4/1995/L.51 sponsored by Argentina*, Armenia*, Australia, Austria, Belgium*, Cameroon, Canada, Costa Rica*, the Czech Republic*, Denmark*, Finland, France, Germany, Guinea-Bissau, Hungary, India, Ireland*, Italy, Jordan*, Latvia*, Luxembourg*, Madagascar*, the Netherlands, Norway*, Poland, Portugal*, the Russian Federation, Senegal*, Slovakia*, Slovenia, Sweden*, Switzerland*, the United Kingdom of Great Britain and Northern Ireland and the

United States of America. Algeria, Chile, the Dominican Republic, El Salvador, Greece*, the Philippines, China, Turkey* and Uruguay* subsequently joined the sponsors.

23. The observer for Belgium orally revised the draft resolution as follows: operative paragraph 5 which read: "Invites the Centre for Human Rights to undertake the publication of a 'fact sheet on the independence of judges and lawyers'" was deleted.

24. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the administrative and programme budget implications 2/ of the draft resolution.

25. The draft resolution, as orally revised, was adopted without a vote.

26. For the text as adopted see chapter II, section A, resolution 1995/36.

27. At the same meeting the observer for Portugal introduced draft resolution E/CN.4/1995/L.54 sponsored by Australia, Austria, Bulgaria, Cameroon, Canada, Costa Rica*, the Czech Republic*, Finland, France, Germany, Greece*, Guinea-Bissau, Hungary, Ireland*, Italy, Liechtenstein*, New Zealand*, Norway, Portugal*, the Republic of Korea, Slovakia*, Sweden*, Turkey*, Ukraine* and the United Kingdom of Great Britain and Northern Ireland. Benin, Denmark*, Egypt, El Salvador, Latvia*, Luxembourg*, Madagascar*, the Netherlands and the Russian Federation subsequently joined the sponsors.

28. The observer for Portugal orally revised the draft resolution as follows: operative paragraph 6(e), which read: "To ensure their speedy release" was replaced by a new paragraph.

29. The draft resolution, as orally revised, was adopted without a vote.

30. For the text as adopted, see chapter II, section A, resolution 1995/39.

31. At the 59th meeting, on 7 March 1995, a statement in explanation of vote after the vote was made by the representative of Japan.

32. At the 53rd meeting, on 3 March 1995, the representative of Canada introduced draft resolution E/CN.4/1995/L.56 sponsored by Austria, Bulgaria, Canada, Chile, Haiti*, Liechtenstein*, Madagascar*, Sweden* and Switzerland*. Argentina*, Benin, Canada, Denmark*, El Salvador, France, Germany, Hungary, Italy, Ireland*, Portugal*, Romania, Slovakia*, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay* and Venezuela subsequently joined the sponsors.

33. The representative of Canada orally revised the draft resolution as follows:

(a) In the tenth preambular paragraph, after the words "writers and authors", the word "translators," was inserted.

(b) After operative paragraph 1, a new operative paragraph was inserted:

(c) The subsequent operative paragraphs were renumbered accordingly.

(d) In operative paragraph 4, after the words "fulfil his mandate" the word "effectively," was inserted.

(e) In the new operative paragraph 8, after the words "writers and authors", the word "translators," was inserted;

(f) In the new operative paragraph 9, the words "as noted in the fourth report of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-4)" were deleted at the end of the paragraph;

(g) In the new operative paragraph 11, after the words "Urges the Special Rapporteur" the words "within the framework of his mandate" were inserted; after the words "serious concern to the Special Rapporteur" the words "or where focusing attention on the situation might prevent a deterioration of the situation" were deleted;

(h) In the new operative paragraph 15, after the words "the working groups" the word ", representatives" was inserted;

(i) In the new operative paragraph 16, the word "requested" was replaced by the words "necessary in order to permit him fully to carry out his mandate,";

(j) In the new operative paragraph 17, after the words "his observations" the words "on country situations" were deleted.

34. The draft resolution, as orally revised, was adopted without a vote.

35. For the text as adopted, see chapter II, section A, resolution 1995/40.

36. At the same meeting, the representative of Austria introduced draft resolution E/CN.4/1995/L.57 sponsored by Argentina*, Armenia*, Austria, Bulgaria, Costa Rica*, the Czech Republic*, Denmark*, France, Germany, Ghana*, Haiti*, Honduras*, Hungary, Israel*, Italy, Liechtenstein*, Mauritius, Sweden* and Switzerland*. Australia, El Salvador, Finland, France, Latvia*, Madagascar*, New Zealand*, the Philippines, the Republic of Korea, Romania, Slovakia*, South Africa*, Sri Lanka, Uruguay* subsequently joined the sponsors.

37. The representative of Austria orally revised the draft resolution as follows:

(a) In the last preambular paragraph, the word "paramount" was replaced by the words "a primary consideration";

(b) In operative paragraph 4, after the words "the United Nations" the word "programmes" was replaced by the word "programme", and after the words "technical assistance" the words "in the field of human rights;" were added;

(c) In operative paragraph 10, after the words "Urges States" the words "to ensure" were deleted, and the words "are fully reflected" were replaced by the words "be fully taken into account".

38. The draft resolution, as orally revised, was adopted without a vote.

39. For the text as adopted, see chapter II, section A, resolution 1995/41.

40. At the 59th meeting, on 7 March 1995, a statement in explanation of vote after the vote was made by the representative of Japan.

41. At the same meeting the Commission resumed consideration of draft resolutions submitted under agenda item 10.

42. The representative of France introduced draft resolution E/CN.4/1995/L.55, sponsored by Argentina*, Austria, Belgium*, Bulgaria, Canada, the Czech Republic*, Finland, France, Hungary, Ireland*, Italy, Poland, Portugal*, Slovakia* and Switzerland. Chile, Germany, Madagascar*, Nepal, Romania, the Russian Federation, Senegal* and Sweden* subsequently joined the sponsors.

43. Draft resolution E/CN.4/1995/L.55 read as follows:

Question of arbitrary detention

The Commission on Human Rights,

Recalling its resolution 1985/16 of 11 March 1985, in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to analyse the available information concerning the practice of administrative detention without charge or trial, and to make appropriate recommendations on the use of this practice,

Reaffirming articles 3, 9, 10 and 29 as well as other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Having taken note with appreciation, at its forty-seventh session, of the revised report by Mr. Louis Joinet on the practice of administrative detention (E/CN.4/Sub.2/1990/29 and Add.1) and of the recommendations formulated therein,

Recalling that the General Assembly, in its resolution 43/173 of 9 December 1988, adopted the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which also covers administrative detention, and that, consequently, there is no longer a purpose in treating the question of administrative detention independently, even if, in certain cases, the procedure of administrative detention gives rise to specific abuses,

Recalling also its resolutions 1991/42 of 5 March 1991, 1992/28 of 28 February 1992 and 1993/36 of 5 March 1993,

Recalling further its resolution 1994/32 of 4 March 1994 under which it decided to extend the mandate of the Working Group on Arbitrary Detention for a three-year period,

Having considered the report of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-4),

Having heard the comments made during the fifty-first session of the Commission,

1. Expresses its appreciation to the Working Group on Arbitrary Detention for the conscientiousness with which it has revised its methods of work and for the way in which it carries out its task, more particularly for recalling the importance that it attaches to respect for the procedures which it has established in its dialogue with States, and to seeking the cooperation of all those concerned by the cases submitted to it for consideration;

2. Takes note with satisfaction of the Working Group's report, inter alia its point-by-point examination of the requests made in Commission resolution 1994/32, and thanks the experts for the rigour with which they have performed their task, in the light of the very specific nature of their mandate, in particular the investigation of cases;

3. Requests the Working Group to continue, in discharging its mandate, to seek and gather information from Governments and

intergovernmental and non-governmental organizations, as well as from the individuals concerned, their families, their relatives or their legal representatives;

4. Invites the Working Group to continue to take account of the need to carry out its task with discretion, objectivity and independence, within the framework of its mandate;

5. Takes note in this context of the importance that the Working Group attaches to coordination with other mechanisms of the Commission and with the treaty-monitoring bodies, as well as to the strengthening of the role of the Centre for Human Rights in such coordination, and invites it to persevere in its efforts;

6. Takes note also of the decisions adopted by the Working Group on issues of a general nature (see E/CN.4/1995/31, sect. II) with a view to achieving better prevention and to facilitating the consideration of future cases as well as helping to further strengthen the impartiality of its work;

7. Expresses its profound thanks to Governments which have extended their cooperation to the Working Group and responded to its requests for information, and asks all Governments concerned to demonstrate the same spirit of cooperation;

8. Requests Governments concerned to give the necessary attention to the "urgent appeals" addressed to them by the Working Group on a strictly humanitarian basis and without prejudging the character of the detention;

9. Calls upon Governments concerned to pay due heed to the Working Group's decisions and, where necessary, to take appropriate steps and inform the Working Group, within a reasonable period of time, of the follow-up to the Group's recommendations so that it can report thereon to the Commission;

10. Encourages Governments to implement the recommendations of the Working Group concerning persons who have been detained for a number of years and are mentioned in the report of the Working Group;

11. Welcomes the invitations to conduct field missions that have been extended to the Working Group by two Governments and encourages other Governments to consider inviting the Working Group to their countries so as to enable the Group to discharge its protection mandate

even more effectively and to make concrete recommendations concerning the promotion of human rights, in the spirit of advisory or technical assistance services;

12. Also welcomes the fact that the Working Group has been informed of the release of many individuals whose situation had been brought to its attention;

13. Expresses its concern at the fact that most cases of arbitrary deprivation of liberty are motivated by exercise of the right to freedom of opinion and expression;

14. Notes with concern that, according to the Working Group, the practice of arbitrary detention is facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without a formal declaration, non-observance of the principle of proportionality between the gravity of the measures taken and the situation concerned, too vague a definition of offences against State security, and the existence of special or emergency jurisdictions;

15. Encourages States to endeavour to take appropriate measures to ensure that their legislation in these fields is in conformity with the relevant international instruments, and not to prolong states of emergency beyond what is strictly required by the situation, or to limit their effects;

16. Invites the Working Group to continue its consultations with a view to devising a procedure for following up its decisions and visits;

17. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities, bearing in mind the recommendations of the final report of the Special Rapporteurs of the Sub-Commission on the right to a fair trial (E/CN.4/Sub.2/1994/24), to consider the possibility of undertaking a study on measures to strengthen the application of the remedy of habeas corpus as an inherent right of the person, with particular reference to its non-derogable nature;

18. Invites the Special Rapporteurs and the Chairman of the Working Group to study, at their next meeting, the most appropriate coordination mechanisms for enhancing the efficiency of the Working Group's work and reports;

19. Requests the Special Rapporteur on states of emergency of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to extend assistance to Governments expressing the wish to receive it, as well as to Special Rapporteurs and Working Groups, with a view to ensuring promotion and observance of the guarantees relating to states of emergency that are laid down in article 4 of the International Covenant on Civil and Political Rights;

20. Requests the Secretary-General to ensure that the Working Group really receives all necessary assistance, particularly in regard to staffing and resources needed to discharge its mandate, including the organization, carrying out and follow-up of missions in countries wishing to invite the Working Group;

21. Requests the Working Group to submit a report to the Commission, at its fifty-second session, and to make any suggestions and recommendations which would enable it to discharge its task in the best possible way, in cooperation with Governments, and to continue its consultations to that end within the framework of its terms of reference;

22. Decides to continue its consideration of the question at its fifty-second session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

44. The representative of France revised the draft resolution.

45. The draft resolution as revised was adopted without a vote.

46. For the text as adopted, see chapter II, section A, resolution 1995/59.

(a) Torture and other cruel, inhuman or degrading treatment or punishment

47. In relation to agenda item 10 (a), the Commission had before it the following documents:

United Nations Voluntary Fund for Victims of Torture: report by the Secretary-General (E/CN.4/1995/33 and Add.1);

Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32 (E/CN.4/1995/34);

Visit by the Special Rapporteur to the Russian Federation (E/CN.4/1995/34/Add.1 and Corr.1);

Joint report of the Special Rapporteur on the question of torture, Mr. Nigel S. Rodley, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre Waly Ndiaye, submitted pursuant to

Commission on Human Rights resolutions 1994/37 and 1994/82: visit by the Special Rapporteur to the Republic of Colombia (E/CN.4/1995/111);

Written statement submitted by Human Rights Watch (E/CN.4/1995/NGO/6).

48. At the 27th meeting, on 16 February 1995, the Special Rapporteur on the question of torture, Mr. Nigel S. Rodley, introduced his report (E/CN.4/1995/34 and Add.1 and Corr.1) to the Commission.
49. In the general debate on agenda item 10 (a), statements were made by the following members of the Commission: Australia (32nd), Chile (32nd), China (30th), France (on behalf of the European Union) (26th), Russian Federation (31st), Sri Lanka (31st), Sudan (27th) and the United States of America (26th).
50. The observer for Cyprus made a statement (32nd).
51. The observer for Switzerland also made a statement (32nd).
52. The Commission also heard statements by the following non-governmental organizations: Andean Commission of Jurists (30th), Anti-Slavery International (34th), Arab Organization of Human Rights (28th), France-Libertés: Fondation Danielle Mitterand (34th), Human Rights Watch (28th), Indian Institute for Non-Aligned Studies (28th), International Association against Torture (28th), International Committee for European Security and Cooperation (28th), International Educational Development (31st), International Federation of Human Rights (28th), Robert F. Kennedy Memorial (34th), Women's International League for Peace and Freedom (30th), World Council of Churches (28th) and World Society of Victimology (30th).
53. The Commission also heard a statement by the representative of the United Nations Crime Prevention and Criminal Branch (27th).
54. Statements in exercise of the right of reply or its equivalent were made by the observers for Iraq (28th) and the Syrian Arab Republic (34th).
55. At its 53rd meeting, on 3 March 1995, the Commission considered the draft resolution and draft decisions submitted under agenda item 10 (a).
56. At the same meeting, the observer for Denmark introduced draft resolution E/CN.4/1995/L.52 sponsored by Australia, Austria, Belgium*, Bulgaria, Canada, Chile, Costa Rica*, Côte d'Ivoire, Cyprus*, the Czech Republic, Finland, France, Germany, Greece*, Hungary, Iceland*, Ireland*, Italy, Liechtenstein*, Luxembourg*, Madagascar*, Malta*, Netherlands, Norway*, Poland, Portugal*, Romania, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, Ukraine*, the

United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela. Benin, El Salvador, Latvia*, New Zealand*, the Russian Federation, Senegal* and Uruguay* subsequently joined the sponsors.

57. The observer for Denmark orally revised the draft resolution as follows:

(a) In operative paragraph 10 of part A the words "taking into account requests received from" were replaced by the words "at the request of";

(b) A new paragraph was inserted as the third preambular paragraph in part B.

58. A statement concerning the draft resolution and the revision was made by the representative of Cuba.

59. The draft resolution, as orally revised, was adopted without a vote.

60. For the text of the draft resolution, see chapter II, section A, resolution 1995/37.

61. At the same meeting, the Commission considered draft resolution III, recommended by the Sub-Commission for adoption by the Commission (see E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, sect. A).

62. The draft resolution was adopted without a vote.

63. For the text as adopted, see chapter II, section A, resolution 1995/42.

64. At the same meeting, the Commission considered draft decision 6, recommended by the Sub-Commission for adoption by the Commission (see E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, sect. A).

65. The representative of the United Kingdom of Great Britain and Northern Ireland proposed that the draft decision be amended to read as follows:

"The Commission on Human Rights, noting resolution 1994/28 of 26 August 1994, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Sub-Commission to reconsider its recommendation to appoint a special rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights, perpetrated on the orders of Governments or sanctioned by them, as an international crime."

66. The representative of Mexico proposed to amend the draft decision further by adding at the end of the amended draft decision, the words "bearing in mind the work of other United Nations bodies on this issue".

67. The draft decision, as amended, was adopted without a vote.

68. For the text as adopted, see chapter II, section B, decision 1995/111.

B. Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

69. In relation to agenda item 10 (b), the Commission had before it the following document:

Report of the Secretary-General (E/CN.4/1995/35).

70. In the general debate on agenda item 10 (b), statements were made by the following members of the Commission: Australia (32nd), Cyprus (32nd), Egypt (27th) and Sri Lanka (31st).

71. The observer for Cyprus made a statement (32nd).

72. The observer for Switzerland (32nd) also made a statement.

73. The Commission also heard a statement by the representative of the United Nations Crime Prevention and Criminal Branch (27th).

74. The Commission also heard statements by the following non-governmental organization: World Council of Churches (28th).

75. At its 53rd meeting, on 3 March 1995, the Commission considered draft resolution E/CN.4/1995/L.52 (see above sub-item 10 (a), paras. 55-59).

C. Question of enforced or involuntary disappearances

76. In relation to agenda item 10 (c), the Commission had before it the following documents:

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36);

Report on the special process on missing persons in the territory of the former Yugoslavia, submitted by Mr. Manfred Nowak, member of the Working Group on Enforced or Involuntary Disappearances, pursuant to paragraph 24 of Commission on Human Rights resolution 1994/72 (E/CN.4/1995/37);

77. At the 27th meeting, on 16 February 1995, the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Mr. Ivan Tosevsky, introduced the report of the Working Group (E/CN.4/1995/36) to the Commission.

78. At the same meeting, the member of the Working Group on Enforced or Involuntary Disappearances, reporting on the special process of missing persons in the territory of the former Yugoslavia, Mr. Manfred Nowak, introduced his report (E/CN.4/1995/37) to the Commission.

79. In the general debate on agenda item 10 (c), statements were made by the following members of the Commission: Australia (32nd), Chile (32nd), China (27th), Colombia (27th), Croatia (32nd), Egypt (27th), Pakistan (31st), Sri Lanka (31st) and the Sudan (27th).

80. The Commission also heard statements by the observer for Bosnia and Herzegovina (32nd) and Cyprus (32nd).

81. The observer for Switzerland also made a statement (32nd).

82. The Commission also heard statements by the following non-governmental organizations: Arab Lawyers Union (28th), Arab Organization of Human Rights (28th), Indian Institute for Non-Aligned Studies (28th), International Educational Development (31st), International Falcon Movement (31st), International League for the Rights and Liberties of Peoples (30th), International Young Catholic Students (28th), Latin American Federation of Associations of Relatives of Disappeared Detainees (28th), Movement against Racism and for Friendship among Peoples (30th), Robert F. Kennedy Memorial (34th) and World Society of Victimology (30th).

83. Statements in exercise of the rights of reply or its equivalent were made by the observers for Cyprus (34th), the Syrian Arab Republic (34th) and Turkey (34th).

84. At its 53rd meeting, on 3 March 1995, the observer for Croatia introduced draft resolution E/CN.4/1995/L.50 sponsored by Albania*, Bosnia and Herzegovina*, Croatia*, the Islamic Republic of Iran*, Jordan*, Morocco*, Pakistan, Turkey* and Yemen*. Afghanistan*, Algeria, Bangladesh, Chile, the Dominican Republic, Egypt, El Salvador, Finland, Japan, Kuwait*, Latvia*, Malaysia, Peru, Senegal*, Switzerland* and Tunisia* subsequently joined the sponsors.

85. The observer for Croatia orally revised the draft resolution as follows:

(a) In the title, the words "Special process dealing with the" were inserted at the beginning;

(b) In the first preambular paragraph, after the words "Guided by" the words "the purpose and principles of" were deleted;

(c) In the fourth preambular paragraph, after the words "'ethnic cleansing'" the words "and the armed conflict" were inserted;

(d) In operative paragraph 1, after the word "Commends" the words "and thanks" were inserted, and after the words "for his" the word "first" was inserted;

(e) In operative paragraph 2, after the words "Republic of Croatia" the words "for the cooperation extended to" were replaced with the words ",requests them to continue and expand the cooperation with".

86. The draft decision, as revised, was adopted without a vote.

87. For the text as adopted, see chapter II, section A, resolution 1995/35.

88. At the same meeting, the representative of France introduced draft resolution E/CN.4/1995/L.53 sponsored by Argentina, Australia, Austria, Belgium*, Bulgaria, Cameroon, Canada, Chile, Costa Rica*, Côte d'Ivoire, the Czech Republic*, Cyprus*, Denmark*, Finland, France, Guinea-Bissau, Hungary, Ireland, Israel*, Italy, Madagascar*, Mauritius, the Netherlands, New Zealand*, Norway*, Poland, Portugal*, Senegal*, Slovakia*, Spain*, Sweden*, Switzerland*, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Benin, Cuba, Greece*, Latvia*, Luxembourg*, the Republic of Korea, Romania and the Russian Federation subsequently joined the sponsors.

89. The representative of France orally revised the draft resolution as follows:

- (a) A new paragraph was inserted as the eighth preambular paragraph;
- (b) A new operative paragraph was inserted as operative paragraph 4;
- (c) The subsequent operative paragraphs were renumbered accordingly;
- (d) In new operative paragraph 15, after the words "efforts of Governments which" the words "investigate and/or" were inserted;
- (e) In new operative paragraph 16, the words "to take effective measures" were replaced by the words "to consider taking effective measures";
- (f) New operative paragraph 20, which read: "Invites the Working Group to continue to assess these obstacles and to pursue its dialogue with the Governments and institutions concerned so that they are fully informed of their responsibilities with respect to the Declaration", was replaced by a new paragraph;
- (g) In new operative paragraph 25, the word "Commends" was replaced by the words "Takes note of".

90. The draft resolution, as orally revised, was adopted without a vote.

91. For the text as adopted, see chapter II, section A, resolution 1995/38.

92. At the 59th meeting, on 7 March 1995, a statement in explanation of vote after the vote was made by the representative of Egypt.

D. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

93. In relation to agenda item 10 (d), the Commission had before it the following document:

Report of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/38 and Add.1).

94. At the 27th meeting, on 16 February 1995, the Chairman-Rapporteur of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Jorge Rhenán Segura, introduced the report of the working group (E/CN.4/1995/38 and Add.1) to the Commission.

95. In the general debate on agenda item 10 (d), statements were made by the following members of the Commission: Australia (32nd), China (30th).

96. The Commission also heard statements by the following non-governmental organizations: Arab Lawyers Union (28th) and Human Rights Watch (28th).

97. At its 53rd meeting, on 3 March 1995, the observer for Costa Rica introduced the draft resolution E/CN.4/1995/L.43 sponsored by Albania*, Argentina*, Armenia*, Austria, Belgium*, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica*, Côte d'Ivoire, Cyprus*, the Czech Republic*, Denmark*, the Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Haiti*, Hungary, Iceland*, Italy, Liechtenstein*, Luxembourg*, Madagascar*, Malta*, the Netherlands, Norway*, Peru, Poland, Portugal*, Romania, the Russian Federation, Senegal*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, the United Kingdom of Great Britain and Northern Ireland, Uruguay* and Venezuela. Bosnia and Herzegovina*, Greece*, Latvia*, South Africa*, the United States of America and Uruguay* subsequently joined the sponsors.

98. The draft resolution was adopted without a vote.

99. For the text as adopted, see chapter II, section A, resolution 1995/33.
