



**General Assembly**

Distr.  
LIMITED

A/HRC/10/L.32  
20 March 2009

Original: ENGLISH

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HUMAN RIGHTS COUNCIL

Tenth session  
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,  
INCLUDING THE RIGHT TO DEVELOPMENT**

**Argentina, Australia\*, Austria\*, Belgium\*, Bosnia and Herzegovina, Bulgaria\*,  
Cameroon, Canada, Chile, Costa Rica\*, Croatia\*, Cyprus\*, Czech Republic\*,  
Denmark\*, Estonia\*, Finland\*, France, Germany, Greece\*, Guatemala\*, Hungary\*,  
Iceland\*, Ireland\*, Italy, Latvia\*, Liechtenstein\*, Lithuania\*, Luxembourg\*,  
Malta\*, Mexico, Monaco\*, Netherlands, New Zealand\*, Norway\*, Panama\*,  
Peru\*, Poland\*, Portugal\*, Republic of Moldova\*, Romania\*, Slovakia,  
Slovenia, Spain\*, Sweden\*, Switzerland, the former Yugoslav Republic of  
Macedonia\*, Turkey\*, Ukraine, United Kingdom of Great Britain and  
Northern Ireland, Uruguay: draft resolution**

**10/... Torture and other cruel, inhuman or degrading treatment or punishment:  
the role and responsibility of medical and other health personnel**

*The Human Rights Council,*

*Recalling* all resolutions on torture and other cruel, inhuman or degrading treatment or  
punishment and on forensic science adopted by the General Assembly, the Commission on  
Human Rights and the Human Rights Council,

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\* Non-member State of the Human Rights Council.

*Recalling also* the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

*Reaffirming* that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

*Recalling* that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance and state of emergency, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

*Noting* the duty of medical and other health personnel to practice for the good of the patients and never do harm or injustice pursuant to the Hippocratic Oath and their respective professional codes of ethics,

*Recalling* that it is a gross contravention of medical ethics, for medical and other health personnel to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment pursuant to the Principles of Medical Ethics,

*Stressing* that medical and other health personnel have a duty to provide competent medical service in full professional and moral independence, with compassion and respect for human dignity, and to always bear in mind human life and to act in the patient's best interest under their respective professional codes of ethics,

*Noting* the duty of all medical and other health personnel to report or denounce acts of torture or cruel, inhuman or degrading treatment of which they are aware to relevant medical, judicial, national or international authorities as appropriate under and consistent with their respective professional codes of ethics,

*Noting also* that, under the Geneva Conventions of 1949, torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the

Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

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

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, and stresses that all acts of torture must be made offences under domestic criminal law;

3. *Stresses* that an order or instruction from a superior officer or a public authority should not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment and that States must never request or require anyone, including any medical or other health personnel, to commit any act of torture or other cruel, inhuman or degrading treatment or punishment;

4. *Urges* States to respect the professional and moral independence, duties and responsibilities of medical and other health personnel;

5. *Also urges* States to ensure that all medical and other health personnel may fulfil their duty to report or denounce acts of torture or cruel, inhuman or degrading treatment of which they are aware to relevant medical, judicial, national or international authorities as appropriate under and consistent with their respective codes of ethics without fear of retribution or harassment;

6. *Stresses* that all allegations of torture and other cruel, inhuman or degrading treatment or punishment must be examined promptly and impartially by the competent domestic authority, including where relevant through examination by forensic experts and other relevant medical personnel, in order for those who encourage, order, tolerate or perpetrate such acts to be held responsible, brought to justice and punished commensurate with the severity of the offence;

7. *Urges* States to establish effective investigation and documentation procedures, and takes note of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a useful tool in this respect;

8. *Stresses* that States must not punish or otherwise intimidate medical and other health personnel for not obeying orders or instructions to commit, facilitate or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment or for speaking out against it;

9. *Urges* all States to provide all persons deprived of their liberty, in prisons or any other detention facility, with a professional medical examination at their admission to and transfer between such facilities and thereafter on a regular basis as a means to help prevent torture or other cruel, inhuman or degrading treatment or punishment;

10. *Also urges* all States to provide all persons deprived of their liberty with protection of their physical and mental health, treatment of any disease or care specifically needed by persons with disabilities of the same quality and standard as is afforded to persons not deprived of their liberty as a means to help prevent torture or other cruel, inhuman or degrading treatment or punishment;

11. *Recognizes* that forensic investigation can play an important role in combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for violations of human rights and, in times of armed conflict, international humanitarian law and encourages further coordination concerning, inter alia, the planning and realization of such investigations, as well as the protection of forensic and related experts, between Governments, intergovernmental organizations and non-governmental organizations;

12. *Calls upon* all States to ensure that education and information regarding the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment are fully included in the training of medical and other health personnel who may be involved in the custody, interrogation and treatment of any individual subjected to any form of arrest, detention or imprisonment;

13. *Urges* all States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

14. *Welcomes* the designation or establishment of independent national preventive mechanisms to prevent torture, with the participation of relevant medical and other health personnel, encourages all States that have not yet done so to establish such mechanisms and calls upon States parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms;

15. *Requests* the Special Rapporteur on torture and other relevant special procedures and invites relevant treaty bodies, within their respective mandates:

(a) To remain vigilant with regard to medical and other health personnel's active or passive participation in torture and other cruel, inhuman or degrading treatment or punishment and to their functional independence of the institution in which they serve;

(b) To discuss possible areas of cooperation with the relevant United Nations bodies, specialized agencies and programmes, in particular the World Health Organization, to address the role and responsibility of medical and other health personnel in the documentation and prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) To respond effectively to credible and reliable information submitted to their attention regarding alleged cases of the active or passive participation of medical and other health personnel in torture and other cruel, inhuman or degrading treatment or punishment;

(d) To consider including in their reports submitted to the Council information on the problem of medical and other health personnel's participation in torture and other cruel, inhuman or degrading treatment or punishment;

16. *Also requests* States to cooperate fully and in good faith with the relevant special procedures;

17. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to continue to provide advisory services to States for the prevention of torture and cruel, inhuman or degrading treatment or punishment, including concerning tools such as the Principles on the Effective Investigation and Documentations of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the investigation of alleged cases of torture;

18. *Takes note* of the report of the Special Rapporteur (A/HRC/10/44).

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