

AMNESTY INTERNATIONAL

Public Statement

AI Index: IOR 41/013/2002 (Public)
News Service No: 72
23 April 2002

UNCHR: Torture - Prevention is better than a cure - breakthrough vote on new torture treaty

A crucial vote on a new treaty to prevent torture took place yesterday, Monday 22 April 2002, at the current session of the UN Commission on Human Rights (the Commission). The Commission voted in favour of an important new instrument - the draft Optional Protocol to the UN Convention against Torture. This new treaty aims to help states to implement their existing obligations under the Convention against Torture to prevent torture in places of detention, such as police stations, prisons, and psychiatric institutions.

What is this new treaty?

The draft Optional Protocol to the Convention against Torture will establish an international sub-committee of independent experts enabled to visit any place of detention under the jurisdiction of a state which ratifies this protocol "whenever necessary and without prior consent" in order to monitor the treatment and conditions of detention of the persons deprived of their liberty. On the basis of these visits, the international sub-committee will make recommendations to the state concerned to assist it in effectively fulfilling its obligation to prevent torture and ill-treatment. It also requires the States parties to create or maintain domestic visiting mechanisms, having access, without prior consent, to any place of detention with the same objective to make recommendations to prevent the torture and ill-treatment of people deprived of their liberty.

Why is this vote at the Commission on Human Rights important?

Despite the creation and adoption of international and regional instruments prohibiting torture and ill-treatment in absolute terms, these violations are still being perpetrated in many countries around the world. These abuses most often occur in places of detention either to extract confessions or information, or to intimidate; these abuses are particularly common where training and discipline of officials is not effective.

Negotiations have taken place for the past ten years to draft a treaty to create an international body of experts to carry out visits to places of detention to help prevent torture. The vote at the Commission to approve the draft new treaty is the first step in making this practical method of preventing torture a reality. It is an innovation as this new treaty will focus on preventing torture - whereas other international methods of dealing with torture (such as the Committee against Torture, the Special Rapporteur on torture, and international and domestic prosecutions for torture) address acts of torture after they have been committed. In the words of the former Special Rapporteur on torture, Mr Kooijmans, this preventive mechanism will be "the final stone in the edifice which the United Nations has built in their

campaign against torture" [E/CN.4/1991/17]

Amnesty International believes that this vote is a significant step forward in the global fight against torture.

What led to this result?

Despite long-term opposition by states such as the USA, Egypt, China, Cuba and Saudi Arabia, the resolution was adopted at the vote by a healthy majority - 29 votes in favour, 10 against and 14 abstentions. The resolution was proposed by Costa Rica, the country which initially began the negotiations to create this new treaty in 1991, and was supported by many states in all regions of the world: Denmark, the Netherlands, Sweden, Spain (representing the EU as a whole) and Switzerland lead the supporters in the European group; Mexico led the support of many countries in Latin America; South Africa and Senegal lead the support of the African countries.

A joint appeal launched by 10 international NGOs* Amnesty International, Association for the Prevention of Torture, International Rehabilitation Council for Torture Victims, International Commission of Jurists, International Federation of Action by Christians for the Abolition of Torture, International Federation of Human Rights, Human Rights Watch, World Organization against Torture, Redress, International Service for Human Rights. addressed to all states and to other NGOs and civil society helped to create broad-based international support for the draft Optional Protocol to be adopted at this years' session of the Commission.

Do visits to places of detention really prevent torture and ill-treatment?

Visits to places of detention have already proved to be an effective means to prevent torture and ill-treatment. On the European level, the European Committee for the Prevention of Torture (CPT), a body which has visited places of detention in 41 of the 43 States members of the Council of Europe, has showed the preventive value of its visits and recommendations.

What happens next?

The text of the proposed new treaty will now be considered by the Economic and Social Council and the General Assembly later this year: with the approval of these bodies, it will become a fully formalized treaty and open to states for ratification. It will enter into force after 20 states have ratified it.

*Amnesty International, Association for the Prevention of Torture, International Rehabilitation Council for Torture Victims, International Commission of Jurists, International Federation of Action by Christians for the Abolition of Torture, International Federation of Human Rights, Human Rights Watch, World Organization against Torture, Redress, International Service for Human Rights.

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