



OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS



Arbitrary detention

Human Rights Resolution 2005/28

The Commission on Human Rights,

Reaffirming articles 3, 5, 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,

Bearing in mind that, in accordance with its resolution 1991/42 of 5 March 1991, the task of the Working Group on Arbitrary Detention is to investigate cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned,

Recalling that the World Conference on Human Rights reaffirmed the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues,

Recalling also the adoption by the Working Group of several deliberations, including its deliberation No. 7 on issues related to psychiatric detention (E/CN.4/2005/6, chap. II),

Reaffirming its resolution 2004/39 of 19 April 2004,

1. *Takes note of:*

(a) The report of the Working Group (E/CN.4/2005/6 and Add.1-4), including the recommendations contained therein;

(b) The work of the Working Group and underlines the positive initiatives it has taken to strengthen cooperation and dialogue with all those concerned by the cases submitted to it, and in particular with States that provide information which should be given due consideration;

(c) The importance that the Working Group attaches to coordination with other mechanisms of the Commission, with other competent United Nations bodies and with treaty bodies, as well as to the strengthening of the role of the Office of the United Nations High Commissioner for Human Rights in such coordination and encourages the Working Group to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field visits;

2. *Requests* the States concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

3. *Encourages* all States:

(a) To give due consideration to the recommendations of the Working Group;

(b) To take appropriate measures in order to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the applicable international legal instruments;

(c) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(d) To ensure that the right referred to in subparagraph (c) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(e) To ensure that the conditions of pre-trial detention do not undermine the fairness of the trial;

4. *Encourages* all States concerned:

(a) Not to extend states of emergency beyond what is strictly required by the situation, in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights, or to limit their effect;

(b) To pay special attention, during states of emergency, to the exercise of those rights that ensure protection against arbitrary detention;

5. *Encourages* all States to cooperate with the Working Group, and to give serious consideration to its requests for visits, so that it may carry out its mandate even more effectively;

6. *Notes with concern* that a growing proportion of urgent appeals of the Working Group has been left unanswered and urges the States 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 its possible final conclusions;

7. *Expresses its profound thanks* to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

8. *Takes note with satisfaction* of the fact that the Working Group has been

informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

9. *Requests* the Secretary-General:

(a) To extend his assistance to States expressing the wish to receive it, and to the special rapporteurs and working groups, with a view to ensuring the promotion and observance of the guarantees relating to the prevention of arbitrary detention that are laid down in the relevant international instruments;

(b) To ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed to continue to discharge its mandate, especially in respect of field missions;

10. *Requests* the Working Group to submit to the Commission, at its sixty-second session, a report on its activities and on the implementation of the present resolution and to include any suggestions and recommendations which would enable it to carry out its task in the best possible way, and to continue its consultations to that end in the framework of its terms of reference;

11. *Decides* to continue its consideration of this question at its sixty-second session under the relevant agenda item.

*56th meeting
19 April 2005*

[Adopted without a vote. See chap. XI, E/CN.4/2005/L.10/Add.11]