



General Assembly

Distr.: General
17 July 2012

Original: English

Human Rights Council

Twentieth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council*

20/16. Arbitrary detention

The Human Rights Council,

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

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

Recalling also Commission on Human Rights resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997, as well as Human Rights Council resolutions 6/4 of 28 September 2007, 10/9 of 26 March 2009, and 15/18 of 30 September 2010, in the latter of which the Council extended the mandate of the Working Group on Arbitrary Detention for a further period of three years,

1. *Stresses* the importance of the work of the Working Group on Arbitrary Detention;
2. *Takes note with interest* of the two latest reports of the Working Group,¹ including the recommendations contained therein;
3. *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;
4. *Welcomes* the commemorative event organized to celebrate the twentieth anniversary of the Working Group on Arbitrary Detention;

* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its twentieth session (A/HRC/20/2), chap. I.

¹ A/HRC/16/47, A/HRC/19/57.

5. *Also welcomes* the creation of a publicly available database containing the Working Group's opinions on individual cases adopted since the establishment of the Group;

6. *Encourages* all States:

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

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

(c) To respect and promote the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power, and to be entitled to trial within a reasonable time or to release;

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

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

(f) To ensure that anyone who is arrested or detained on a criminal charge has adequate time and facilities for the preparation of his or her defence, including the opportunity to engage and communicate with counsel;

(g) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;

7. *Also encourages* all States to cooperate with the Working Group and to give serious consideration to responding favourably to its requests for visits so that it may carry out its mandate even more effectively;

8. *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;

9. *Notes with satisfaction* 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;

10. *Requests* the Working Group to prepare draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty, as stated in paragraph 6 (d) above, with the aim of assisting Member States in fulfilling their obligation to avoid arbitrary deprivation of liberty in compliance with international human rights law;

11. *Also requests* the Working Group, in preparing the above-mentioned draft basic principles and guidelines:

(a) To seek the views of States, relevant United Nations agencies, intergovernmental organizations, United Nations treaty bodies and, in particular, the Human Rights Committee, other special procedures, national human rights institutions, non-governmental organizations and other relevant stakeholders;

(b) To submit a specific report to the Human Rights Council on national, regional and international laws, regulations and practices on the right as stated in paragraph 6 (d) above;

(c) To hold subsequently a consultation with stakeholders in relation to the preparation of the first draft basic principles and guidelines;

(d) To present the draft basic principles and guidelines to the Human Rights Council before the end of 2015, in accordance with its annual programme of work;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights to provide all assistance and support necessary to the Working Group for the preparation of the above-mentioned draft basic principles and guidelines;

13. *Requests* the Secretary-General to provide all assistance necessary to the Working Group, particularly with regard to the staffing and resources needed for the effective fulfilment of its mandate, especially in respect of field missions;

14. *Decides* to continue consideration of the question of arbitrary detention in conformity with its programme of work.

*33rd meeting
6 July 2012*

[Adopted without a vote.]
