

1984/50. Safeguards guaranteeing protection of the rights of those facing the death penalty

The Economic and Social Council,

Having regard to the provisions bearing on capital punishment in the International Covenant on Civil and Political Rights,¹²⁰ in particular article 2, paragraph 1, and articles 6, 14 and 15 thereof,

Recalling General Assembly resolution 38/96 of 16 December 1983, in which, *inter alia*, the Assembly expressed its deep alarm at the occurrence on a large scale of summary or arbitrary executions,

Recalling also General Assembly resolution 36/22 of 9 November 1981, in which the Committee on Crime Prevention and Control was requested to examine the problem with a view to making recommendations,

Recalling further Council resolution 1983/24 of 26 May 1983, in which it decided that the Committee on Crime Prevention and Control should further study the question of death penalties that did not meet the acknowledged minimum legal guarantees and safeguards, as contained in the International Covenant on Civil and Political Rights and other international instruments, and welcomed the intention of the Committee that the issue should be discussed at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Acknowledging the work done by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the areas of summary or arbitrary executions, including the reports of the Special Rapporteur,¹²¹

Considering the relevant views and comments of the Human Rights Committee established under the International Covenant on Civil and Political Rights,

Expressing its concern at the tragic incidence of arbitrary or summary executions in the world,

Having considered the note by the Secretary-General on arbitrary and summary executions,¹²²

Guided by the desire to continue to contribute to the strengthening of the international instruments relating to the prevention of arbitrary or summary executions,

1. Takes note of the note by the Secretary-General on arbitrary and summary executions;

2. Again strongly condemns and deplors the brutal practice of arbitrary or summary executions in various parts of the world;

3. Approves the safeguards guaranteeing protection of the rights of those facing the death penalty, recommended by the Committee on Crime Prevention and Control and annexed to the present resolution, on the understanding that they shall not be invoked to delay or to prevent the abolition of capital punishment;

4. Invites the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the safeguards with a view to establishing an implementation mechanism, within

the framework of the item of its provisional agenda¹²³ entitled "Formulation and application of United Nations standards and norms in criminal justice".

21st plenary meeting
25 May 1984

ANNEX

Safeguards guaranteeing protection of the rights of those facing the death penalty

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights,¹²⁴ including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

1984/51. Technical co-operation in crime prevention and criminal justice

The Economic and Social Council,

Recalling General Assembly resolution 36/21 of 9 November 1981, in which the Assembly urged the Department of Technical Co-operation for Development of the United Nations Secretariat and the United Nations Development Programme to increase their level of support to programmes of technical assistance in the field of crime prevention and criminal justice, and to encourage technical co-operation among developing countries,

Recalling also General Assembly resolution 35/171 of 15 December 1980, in which the Assembly endorsed

¹²⁰ General Assembly resolution 2200 A (XXI), annex.

¹²¹ E/CN.4/1983/16 and Add.1 and Corr.1; E/CN.4/1984/29.

¹²² E/AC.57/1984/16.

¹²³ See Council resolution 1982/29, para. 1.

¹²⁴ General Assembly resolution 2200 A (XXI), annex.