



UNITED NATIONS



**Seventh United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

Milan, Italy, 26 August to 6 September 1985

Distr.
GENERAL

A/CONF.121/21
29 May 1985

ORIGINAL: ENGLISH

Item 7 of the provisional agenda

EXTRA-LEGAL, ARBITRARY AND SUMMARY EXECUTIONS

Note by the Secretary-General

1. In its resolution 1983/24, the Economic and Social Council 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, 1/ and welcomed the Committee's intention that the issue should be discussed at the Seventh United Nations Congress. It may also be recalled that the Sixth Congress, in its resolution 5, affirmed that extra-legal executions constituted a particularly abhorrent crime, the eradication of which was a high international priority, and urged all organs of the United Nations dealing with questions of crime prevention and human rights to take all possible action to bring such acts to an end.

2. At all regional preparatory meetings for the Seventh Congress concern was expressed with regard to such practices. In particular, delegations at the Regional Preparatory Meetings for Africa (A/CONF.121/RPM/4, para. 59) and Western Asia (A/CONF.121/RPM/5, para. 89) condemned these. The European Regional Preparatory Meeting (A/CONF.121/RPM/1, para. 26), recalling that the United Nations and notably the Sixth Congress, had repeatedly and strongly condemned and deplored such brutal practices, considered it appropriate that the issue should be discussed at the Seventh Congress. The Latin American Regional Preparatory Meeting (A/CONF.121/RPM/3, para. 76) suggested in this connection that the Seventh Congress could focus on the need for additional standards and norms and the question of death penalties that did not meet the acknowledged minimum legal guarantees and safeguards. The Asia and the Pacific Regional Preparatory Meeting (A/CONF.121/RPM/2, para. 91) proposed that priority should be given to the question of deaths in the custody of, or allegedly attributable to, security and para-security forces and to the formulation of more rigorous inquest procedures in such cases.

3. In furtherance of these objectives laid down by the Sixth Congress, and followed by the regional preparatory meetings and by the Economic and Social Council in its resolution 1983/24, the Committee on Crime Prevention and Control at its eighth session, held in 1984, formulated a set of safeguards guaranteeing protection of the rights of those facing the death penalty, subsequently adopted by the Council in its resolution 1984/50, on the understanding that they should not be invoked to delay or to prevent the abolition of capital punishment. At the same time the Council invited the Seventh Congress to consider the safeguards with a view to establishing an implementation mechanism. Proposals for such an implementation mechanism have been presented to the Congress in a separate report (E/1985/43, paras. 73-74), which also contains the results of the third quinquennial survey on capital punishment covering the years 1979-1983 prepared by the Secretary-General in accordance with Council resolution 1745 (LIV) of 16 May 1973. This report, which was considered by the Council at its Spring Session of 1985 (resolution 1985/33), has been made available to the Seventh Congress in pursuance of the Council's request contained in resolution 1983/24.

4. The present note, however, deals exclusively with the prevention and control of extra-legal, arbitrary and summary executions, that is, occurrences that do not meet the acknowledged minimum legal standards and guarantees, and that have been condemned by all national legal systems, and thus by general principle of law, as emphasized in resolution 5 of the Sixth Congress.

5. In this context, reference is made to the work of the United Nations human rights programme, especially as carried out by the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of

Minorities* (E.AC.57/1984/16, paras. 6-17), and to the Commission's Special Rapporteur on Arbitrary and Summary Executions appointed by the Economic and Social Council resolution in its resolution 1982/35 upon the recommendation of the Commission.** Recently, by its resolution 39/110, the General Assembly, inter alia, appealed to all Governments to co-operate with and assist the Special Rapporteur in his work and requested the Special Rapporteur, in carrying out his mandate, to respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened.

6. Reference is also made to the work of the human rights programme in some related areas (see annex): first, to enforced or involuntary disappearances that are particularly relevant, since often they are followed by the abducted person's death (E/CN.4/1985/15); secondly, to torture and other cruel, inhuman or degrading treatment or punishment that may also result in death (see General Assembly resolution 39/46); thirdly, to the use of force, especially of firearms, by law enforcement officials and military personnel, which may have lethal consequences. 2/

7. The Interregional Preparatory Meeting for the Seventh Congress, which was held at Varenna, Italy, from 24 to 28 September 1984 to assist the Secretariat in the preparation of documentation for the topic entitled "Formulation and application of United Nations standards and norms in criminal justice", considered the question of extra-legal, arbitrary and summary executions. An account of the discussion is reflected in the report of the meeting (A/CONF.121/IPM/3).

Notes

1/ See E/AC.57/1984/16, paras. 22-48 and E/CN.4/1983/16, paras. 22-47; see also Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.83.XIV.1), United Nations Action in the Field of Human Rights (United Nations publication, Sales No. E.79.XIV.6).

2/ See "Code of conduct for law enforcement officials: note by the Secretariat" (A/CONF.121/12); "The administration of justice and the human rights of detainees: report on restraints in the use of force prepared by the Secretary-General in accordance with Sub-Commission resolution 1983/24" (E/CN.4/Sub.2/1984/14).

*The Centre for Human Rights has prepared a note on action on human rights in the field of arbitrary or summary executions for presentation to the Seventh Congress.

**Assignments of the Special Rapporteur, who is a person of required international standing, include submission of comprehensive reports on the legal and judicial context of summary and arbitrary executions with conclusions and recommendations for possible action by the Commission on Human Rights. The initial mandate of the Special Rapporteur covered one year and by subsequent resolutions of the Commission in 1983 and in 1985, his mandate was extended for subsequent one-year periods.

Annex

INTERNATIONAL STANDARDS RELATED TO THE SUBJECT OF
EXTRA LEGAL, ARBITRARY AND SUMMARY EXECUTIONS

1. A number of human rights instruments are of relevance to the subject of extra-legal, arbitrary and summary executions, including:

(a) Universal Declaration of Human Rights (articles 2, 3, 7);

(b) International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex) - articles 4, 6, 7, 14 and 15;

(c) International Convention on the Suppression and Punishment of the Crime of Apartheid (General Assembly resolution 3068 (XXVIII), annex) - article II;

(d) Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III), annex) - articles II and III;

(e) International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), annex) - article 5;

(f) Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX), annex);

(g) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46, annex).

2. A draft international instrument is in the process of formulation:

Draft Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, under study in the General Assembly (A/C.6/39/L.10).

3. In addition, a draft instrument has been proposed:

Draft declaration against unacknowledged detention of persons, whatever their condition, requested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1983/23 of 5 September 1983 (see E/CN.4/1984/3, chap. XXI, sect. A).

This archiving project is a collaborative effort between United Nations Office on Drugs and Crime and American Society of Criminology, Division of International Criminology. Any comments or questions should be directed to Cindy J. Smith at CJSmithphd@comcast.net or Emil Wandzilak at emil.wandzilak@unodc.org.