

The resolution adopted at the 1997 session of the Commission resolved, to some degree, the dispute over "detention" and "imprisonment" by adopting the term "arbitrary deprivation of liberty" or a variation thereof. The Commission entrusted to the WG the task of "investigating cases of deprivation of liberty imposed arbitrarily, provided that no final decision has been taken in such cases by domestic courts in conformity with: (a) domestic law; (b) relevant international standards set out in the Universal Declaration; and, (c) relevant international instruments accepted by the states concerned.

The WG reaffirmed the recommendations made in its 1996 report (E/CN.4/1996/40) in areas related to, for example, the causes of arbitrary detention and steps that could be taken to prevent or reduce them and the release of persons who have been arbitrarily detained, especially those detained for many years. The WG specifically:

- ▶ emphasized the need for governments to respond to cases transmitted to them within the 90-day period and provide detailed information with regard to both facts and law;
- ▶ requested the Commission to recommend that relevant governments lift long-standing states of emergency and restore normal rule of law and, in cases where a state of emergency is justified, to recommend that the government concerned strictly apply the principle of proportionality;
- ▶ suggested that the Commission request governments to eliminate from national legislation precepts sanctioning modes of conduct without describing them with sufficient clarity so that individuals may understand clearly which conduct is lawful and which is not, without possible room for doubt; and
- ▶ suggested that the Commission request states to incorporate the remedy of habeas corpus in national legislation, as an individual right.

The resolution adopted at the 1997 session (1997/50): reaffirmed relevant articles in the Universal Declaration and the ICCPR; noted efforts of the WG to revise its methods of work and strengthen dialogue with states; invited the WG to continue to seek and gather information from all sources, including individuals concerned, their families and legal representation; invited the WG to re-examine its methods of work and particularly those related to admissibility of communications received, urgent appeals and deadlines set for governments to reply to requests for information on individual cases; invited the WG to take gender-specificity into account in its reports and give particular attention to the situation of women subjected to arbitrary deprivation of liberty; affirmed that the WG can take up cases on its own initiative; requested that attention be given to reports concerning the situation of immigrants and asylum seekers allegedly being held in prolonged administrative custody without possibility of administrative or judicial remedy and include observations on this subject in the report to the 1998 Commission; noted the decision of the WG not to apply the ICCPR and other international legal instruments to states that are not parties to them; appealed to states that have not done so to become parties to international human rights instruments and for states parties to withdraw reservations to relevant instruments; noted the decision of the WG in future to give views rather than take decisions; requested governments to take

appropriate steps to remedy the situation of persons arbitrarily deprived of liberty and inform the WG of steps taken; encouraged governments to give attention to the recommendation of the WG related to persons detained for a number of years and ensure that national legislation is in conformity with relevant international standards and applicable legal instruments; encouraged governments not to extend states of emergency beyond what is strictly required or to limit their effects; encouraged all governments to invite the WG to their countries; requested governments concerned to give necessary attention to urgent appeals forwarded to them by the WG; and extended the mandate of the WG for three years with the task of investigating cases of deprivation of liberty imposed arbitrarily.

The mandate of the WG will be up for renewal again at the Commission's session in the year 2000.

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DEVELOPMENT

Group of Experts on the right to development (E/CN.4/1997/22)

At the 1996 session, the Commission reaffirmed that the right to development is an integral part of fundamental human rights and urged states to integrate civil, cultural, economic, political and social rights into development activities. The Commission also decided to establish, for a two-year period, a ten-member intergovernmental group of experts with a mandate to elaborate a strategy for the implementation and promotion of the right to development. The Commission further expressed its expectation that the Group of Experts would consult with the human rights treaty bodies and the High Commissioner for Human Rights on all issues relevant to implementation of the right to development.

The 1997 report of the Group of Experts has two main features: commentary on the multidimensional aspects of the right to development and proposals for measures that may be undertaken in future for the implementation and promotion of the right. In terms of the multidimensional aspects, the report acknowledges that development is not only a process but also a right of all individuals, groups and peoples, which incorporates a wide range of aspects, including economic, social, cultural and political ones. Human rights mechanisms and instruments are seen as useful in promoting the development process and the whole range of human rights. The report notes that individuals, groups and peoples, particularly from disadvantaged sections of societies, should be able to exercise their rights to participate meaningfully in and enjoy the benefits of development.

The report includes a chart of issues that the Group of Experts, observer government delegations and NGOs identified as related to the right to development.

Economic aspects of the right, at the international and national levels, were seen to incorporate such issues as: trade relations, financial resources, aid resources, structural adjustment programs, technology transfer, transnational corporations, the right of states over natural wealth and resources, environmental protection, unilateral coercive economic measures, globalization, poverty eradication, public spending patterns, the right to property, land distribution and land