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HUMAN RIGHTS COUNCIL

Tenth session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Argentina, Austria*, Belgium*, Bolivia, Brazil, Canada, Chile,
Costa Rica*, Cyprus*, Denmark*, Dominican Republic*,
Ecuador*, Egypt, Finland*, France, Germany, Guatemala*,
Ireland*, Italy, Latvia*, Peru*, Poland*, Portugal*, Serbia*,
Spain*, Switzerland, United Kingdom of Great Britain and
Northern Ireland, Uruguay: draft resolution**

10/... Forensic genetics and human rights

The Human Rights Council,

Recalling the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 12 August 1949, and the Additional Protocols thereto of 1977, and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action,

* Non-member State of the Human Rights Council.

Taking into account resolution 2005/66 of the Commission on Human Rights, decision 2/105 and resolution 9/11 of the Human Rights Council and the reports of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2006/91 and A/HRC/5/7) on the right to the truth,

Taking into account also resolutions 1993/33, 1994/31, 1996/31, 1998/36, 2000/32, 2003/33 and 2005/26 of the Commission on Human Rights on human rights and forensic science,

Recalling article 32 of Additional Protocol I to the Geneva Conventions, of 12 August 1949, which recognizes the right of families to know the fate of their relatives, article 33 of Additional Protocol I, which provides that the parties to an armed conflict shall search for the persons who have been reported missing as soon as circumstances permit, and article 24 (2) of the International Convention for the Protection of All Persons from Enforced Disappearance, which sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and sets forth State party obligations to take appropriate measures in this regard,

Recalling also General Assembly resolution 61/155 on missing persons, in which the Assembly emphasized the importance of forensics in identifying such persons and recognized the progress achieved in this regard with the development of genetics, as well as the report of the Secretary-General on missing persons (A/63/299),

Noting the report of the International Committee of the Red Cross on missing persons and their families of February 2003,

Stressing that adequate steps to identify victims should also be taken in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law,

Recognizing the importance of restoring identity to those persons who were separated from their families of origin, including those cases where they were taken away from their relatives when they were children, in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law,

Recognizing also that forensic genetics, when applied in an independent manner and subject to international standards, may effectively contribute to the identification of remains of victims, to the restitution of identity to those persons illegally taken away and to address the issue of impunity,

Mindful of the fact that ethical issues arising from the swift progress of science and its technological uses must be examined not only in the light of due respect for a human being's dignity, but also of the observance of human rights and fundamental freedoms, and recalling in this regard the Universal Declaration on Bioethics and Human Rights, the International Declaration on Human Genetic Data and the Universal Declaration on the Human Genome and Human Rights of the United Nations Educational, Scientific and Cultural Organization,

1. *Encourages* States to consider the use of forensic genetics to contribute to the identification of the remains of victims of serious violations of human rights and of international humanitarian law, and to address the issue of impunity;
2. *Also encourages* States to consider the use of forensic genetics to contribute to the restoration of the identity to those persons who were separated from their families, including those taken away from their relatives when they were children, in situations of serious violations of human rights and, in the context of armed conflicts, of violations of international humanitarian law;
3. *Stresses* the importance of providing the results of the investigations of forensic genetics to national authorities, in particular, where appropriate, to competent judicial authorities;
4. *Welcomes* the increasing use of forensic genetics in the investigations of serious violations of human rights and international humanitarian law and calls for further cooperation

between States, intergovernmental organizations and non-governmental organizations in planning and conducting such investigations consistent with applicable domestic and international law;

5. *Encourages* States to consider the use of forensic genetics to be applied pursuant to the international standards accepted by the scientific community in relation to quality assurance and control and to ensure, where appropriate, the utmost respect for the principles of protection and confidentiality of information and restricted access to such information, and recognizes that many States have domestic legislation in place designed to protect the privacy of individuals;

6. *Requests* the Office of the United Nations High Commissioner for Human Rights to request information from States, intergovernmental and non-governmental organizations on best practices in the use of forensic genetics for identifying victims of serious violations of human rights and international humanitarian law with a view to considering the possibility of drafting a manual that may serve as a guide for the application of forensic genetics, including, where appropriate, the voluntary creation and operation of genetic banks, with appropriate safeguards;

7. *Asks* the Office of the High Commissioner to include the information requested above in a report on the use of forensic experts, to be submitted to the Council at its fifteenth session, pursuant to Council resolution 9/11 on the right to the truth;

8. *Decides* to consider this matter at its fifteenth session under the same agenda item.
