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

Argentina, Armenia*, Austria, Belgium*, Bosnia and Herzegovina*, Bulgaria*, Chile, Costa Rica, Croatia*, Cyprus*, Czech Republic, Denmark*, Estonia, Finland*, France*, Georgia*, Germany, Greece*, Guatemala, Honduras*, Hungary*, Iceland*, Ireland, Italy, Liechtenstein*, Lithuania*, Luxembourg*, Mexico*, Montenegro, Netherlands*, Norway*, Panama*, Paraguay*, Peru, Poland, Portugal*, Slovakia*, Slovenia*, Spain, Sweden*, Switzerland, the former Yugoslav Republic of Macedonia*, Turkey*, Uruguay*: draft resolution

22/… Torture and other cruel, inhuman or degrading treatment or punishment: rehabilitation of torture victims

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Council,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment, and recalling in this regard the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and relevant provisions in the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected under all circumstances, including in times of international or internal armed conflict or internal disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in

* Non-Member State of the Human Rights Council.

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relevant international instruments, and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

Noting that torture and inhuman treatment are grave breaches of the Geneva Conventions of 1949, and that under the Statute of the International Criminal Tribunal for the Former Yugoslavia, the Statute of the International Criminal Tribunal for Rwanda and the Rome Statute for the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Recalling article 14 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment providing a right to redress for victims of torture, and General Assembly resolution 60/147 of 16 December 2005, in which the Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

Taking note with appreciation of the general comment of the Committee against Torture regarding the implementation of article 14 of the Convention,

Reaffirming and recalling resolutions of the Human Rights Council and the General Assembly, including Assembly resolution 36/151 of 16 December 1981, in which the Assembly established the United Nations Voluntary Fund for Victims of Torture, in which States are urged to ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation,

Recognizing that redress for victims of torture and other cruel, inhuman or degrading treatment or punishment encompasses effective remedy and adequate, effective and prompt reparation, which should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition taking into full account the specific needs of the victim,

Noting that, for the purposes of the present resolution, the term "victim" means a victim of torture or other cruel, inhuman or degrading treatment or punishment, and that a person should be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted and regardless of any familial or other relationship between the perpetrator and the victim,

Recognizing that redress depends upon and is obtained through prompt, effective and impartial investigations of torture or other cruel, inhuman or degrading treatment or punishment and acknowledgement of the violations, and that the provision of redress has an inherent preventive and deterrent effect in relation to future violations,

Recognizing also that the main purpose of rehabilitation is to enable victims to regain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave

nature, and calls upon States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

3. *Urges* all States that have not yet become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to do so, and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

4. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of any place of detention or other place where persons are deprived of their liberty, where the prohibited act is found to have been committed;

5. *Recalls*, in this respect, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a valuable tool in efforts to prevent and combat torture, and the updated set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity;

6. *Stresses* that national legal systems must ensure that victims obtain redress without suffering any reprisals for bringing complaints or giving evidence;

7. *Recognizes* the interdependence and equal importance of providing an effective remedy and reparation, including restitution, fair and adequate compensation, rehabilitation, satisfaction and guarantees of non-repetition, to redress torture and other cruel, inhuman or degrading treatment or punishment;

8. *Encourages* States to adopt a victim-oriented approach and put victims and their individual needs at the centre of redress procedures, including by implementing procedures for the effective participation of victims in the redress process, consulting victims and organizations representing them in determining appropriate individual reparation, and taking measures to avoid retraumatisation of the victim caused by or during the redress process;

9. *Urges* States to pay special attention to the provision of redress for gender-based violations that constitute torture or other cruel, inhuman or degrading treatment or punishment, and to adopt a gender-sensitive approach to redress;

10. *Recognizes* that sexual and gender-based violence that constitutes torture or other cruel, inhuman or degrading treatment or punishment affects victims, their families, communities and societies, and stresses that effective remedies in those situations should include access to health care, psychosocial support, legal assistance and socioeconomic reintegration services for victims of such violence;

11. *Urges* States to ensure that appropriate rehabilitation is promptly available to all victims without discrimination of any kind, provided either directly by the public health system or through the funding of private rehabilitation facilities, including those administered by civil society organizations, and to consider making rehabilitation available to immediate family or dependents of the victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization;

12. *Recognizes* the importance of full, holistic and specialized rehabilitation services, which include any necessary coordinated combination of medical and psychological care, as well as legal, social, community- and family-based, vocational,

educational services and interim economic support and that are performed by specialists with a view to establish the restoration of functions or the acquisition of new skills required by the changed circumstances of a victim in the aftermath of torture or other cruel, inhuman or degrading treatment or punishment;

13. *Urges* States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken;

14. *Encourages* States to make rehabilitation services available at the earliest possible stage and without limitation in time until as full rehabilitation as possible is achieved;

15. *Calls upon* States to ensure that victims are duly informed about the availability of rehabilitation services and that procedures for obtaining rehabilitation are transparent;

16. *Encourages* States to ensure early assessment and evaluation of individuals' rehabilitation needs, and recalls in this regard the Istanbul Principles as a valuable tool; and to further ensure continuous evaluation of the quality of the rehabilitation services;

17. *Urges* States to respect the professional and moral independence, duties and responsibilities of rehabilitation personnel, as well as the confidentiality of the rehabilitation process, and to ensure that they or the victims are not subjected to reprisals or intimidation;

18. *Encourages* States to ensure that persons providing rehabilitation services, as well as other relevant professionals, receive initial and continuing, adequate and regular training relevant to implement the prohibition against torture and to provide rehabilitation;

19. *Encourages* bilateral and international cooperation on effective remedy and reparation, including rehabilitation for victims, encourages States and other donors to contribute generously to the United Nations Voluntary Fund for Victims of Torture, established to provide humanitarian, legal and financial aid to victims of torture and their relatives, and requests the Office of the United Nations High Commissioner for Human Rights to provide advisory services in cooperation with other relevant United Nations agencies to States on the provision of redress to torture victims;

20. *Invites* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant special procedures and treaty bodies to continue to address effective remedy and reparation, including rehabilitation of victims;

21. *Takes note with appreciation* of the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.[1]

[1] A/HRC/22/53.