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SIXTH COMMITTEE
Agenda item 138DRAFT BODY OF PRINCIPLES FOR THE PROTECTION **OF** ALL PERSONS
UNDER ANY FORM OF DETENTION OR **IMPRISONMENT**Report of the Working Group on the Draft Body of Principles
for the Protection of All Persons under Any Form of Detention
or ImprisonmentChairman-Reporteur: Mr. Tullio TREVES (Italy)

1. At its forty-second session, **1/** the General Assembly decided that a working group of the Sixth Committee would be established at **the beginning of** the forty-third session in order to complete the elaboration of the draft Body **of** Principles for **the** Protection of All Persons under Any Form of Detention or Imprisonment during that session (decision **42/426**).
2. At the forty-third session, the Sixth Committee, in accordance with that decision, established at its 4th meeting, on 27 September 1988, an open-ended Working Group, to the chairmanship of which it reappointed Mr. Tullio Treves (**Italy**).
3. The Working Group held 6 meetings between 4 October and 16 November 1988.
4. The Working Group proceeded in **three** stages. **At** the first stage, **it** considered three questions which it had left pending at the forty-second session of the General Assembly (see **para.** 5 below). **At** the second stage, it examined suggestions presented by delegations for additions or modifications to the text of

1/ For a summary of the previous history **of** the item, see the report of the Working Group at the fortieth session of the General Assembly (**A/C.6/40/L.18, paras.** 1 and 2).

the draft Body of Principles as provisionally adopted, as well as a number of questions raised in relation to that text in the Working Group on Detention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which had been brought to its attention in compliance with decision 1988/107 of the Sub-Commission. At the third stage, the Working Group reviewed the entire draft of the Body of Principles for accuracy and consistency, thus completing its elaboration in accordance with General Assembly decision 42/426. It decided to submit the text reproduced in chapter III of the present report to the Sixth Committee for consideration and adoption.

I. CONSIDERATION OF QUESTIONS LEFT PENDING AT THE FORTY-SECOND SESSION OF THE GENERAL ASSEMBLY

5. The questions left pending at the forty-second session of the General Assembly included: (a) the question whether there was a need to strengthen the safeguards concerning incommunicado detention and habeas corpus contained in the draft Body of Principles as provisionally agreed upon at previous sessions; 2/ (b) the question of the definition of the terms "arrest" and "detention"; 3/ and (c) the question of the definition of the phrase "a judicial or other authority". 4/

6. Addressing the first question, the Working Group noted that three principles, namely principles 15, 17 and 18 (renumbered 16, 18 and 19 in the final draft of the Body of Principles as contained in the present report), contained guarantees relating to communication with the outside world and that all three provided for the possibility of exceptions to those guarantees.

7. As regards principle 18, the Working Group observed that the phrase "subject to reasonable conditions and restrictions as specified by law or lawful regulations" sought to regulate the exercise of the right enunciated in the principle rather than to allow for exceptions to that right. It therefore concluded that the phrase in question could not give rise to abuse.

8. With reference to principles 15 and 17, the Working Group noted that the exceptions contained therein were couched in restrictive terms: the notification to members of the family or other persons referred to in principle 15 could be delayed only "for a reasonable period" and "where exceptional needs of the investigation" so required. As for the right of a detainee under principle 17 to communicate with his legal counsel, it could be suspended or restricted only "in exceptional circumstances to be specified by law or lawful regulations" and under the control of a judicial or other authority. The Working Group was therefore of the view that, within the framework of each of the two above-mentioned principles, the provisos limiting the scope of possible exceptions precluded the risk of abuse.

2/ See A/C.6/42/L.12, para. 73.

3/ *Ibid.*, paras. 82-98.

4/ *Ibid.*, paras. 74-61.

9. The Working Group on the other hand recognized that, applied cumulatively, the exceptions in principles 15 and 17 might result in individuals being completely cut off from the outside world for indefinite periods. While acknowledging that the possibility of keeping detainees or prisoners in isolation for a few days should be left open in the interest of society, the Working Group felt that such a possibility should be kept within strict temporal confines. It therefore agreed to include a new principle 14 bis (renumbered 15 in the final draft of the Body of Principles as contained in the present report) reading as follows:

"Notwithstanding the exceptions contained in principle 15, paragraph 4, and principle 17, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."

10. As regards the definition of the term "detention", the Working Group agreed that the text provisionally adopted at the previous session called for clarification. It provisionally adopted the following revised text:

"'Detained person' means any person deprived of personal liberty except as a result of conviction for an offence".

11. As regards the definition of the term "arrest", the Working Group extensively discussed its relationship to the question of the scope of the Body of Principles. At the end of the discussion, it provisionally adopted the following definition:

"'Arrest' means the act of apprehending a person for the alleged commission of an offence or by the action of an authority".

12. It is understood that the phrase "apprehending a person for the alleged commission of an offence" covers both arrests effected by public authorities and citizens' arrests as provided under certain legislations,

13. Regarding the term "judicial or other authority", it was generally agreed within the Working Group that, in view of the inclusion of principle 36 (renumbered 37 in the final draft of the Body of Principles as contained in the present report), the bracketed language contained in the definition provisionally adopted at the previous session could be eliminated without any risk of calling into question the norms established in the International Covenant on Civil and Political Rights. The Working Group accordingly eliminated from that definition the bracketed portions and provisionally adopted the following text:

"The words 'a judicial or other authority' mean a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence."

14. It is understood within the Working Group that the interpretation of the various principles should be based on the concepts embodied in the definitions worked out "for the purposes of the Body of Principles" and not on the meaning which the corresponding terms may have under specific legal systems.

II. CONSIDERATION OF SUGGESTIONS FOR ADDITIONS OR MODIFICATIONS
TO THE TEXT OF THE DRAFT BODY OF PRINCIPLES AS
PROVISIONALLY ADOPTED

15. As indicated in paragraph 4 above, the Working Group, at the second Stage of its proceedings, examined a **number** of suggestions for additions or modifications to the text of the draft Body **of** Principles, which had been introduced and informally circulated. The Working Group noted that the sponsoring delegations, although being of the view that the adoption of their suggestions would result in an improvement of the draft, had expressed readiness not to insist, at that advanced stage of the work, on a substantial number of them, in order to facilitate agreement. The result of that examination is reflected below.

16. In principle 3, the Working Group agreed **to** eliminate the word "fundamental" which it viewed as unnecessary inasmuch as the concept **of** human rights was sufficiently delineated by the reference to "law, conventions, regulations or custom".

17. In the footnote appended to principle 6, the Working Group agreed to eliminate the phrase "has not been defined by the General Assembly", taking into account the fact that article 1 **of** the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (General Assembly resolution **39/46** of 10 December 1984, annex) contained a definition of the **term** "torture".

18. The Working Group considered a proposal for a new principle **22 bis** which embodied the concept that subjecting detained persons to undue pressure by holding them in solitary confinement or in conditions which deprived them of their natural senses was an infringement of their human rights which was only admissible in exceptional circumstances. **Some** representatives supported the proposal. Others observed that the underlying idea was covered by principle 6 and that getting into too much detail would not only detract from the generality of that principle but also make the achievement **of** consensus **more** difficult.

19. The Working Group agreed to include in the footnote to principle 6 an express reference to the holding of detainees or prisoners in conditions depriving them of their natural senses.

20. In principle 15 (renumbered 16 in the final draft of the Body of Principles as contained in the present report), the Working Group agreed to make the text of paragraph 2 **more precise** by inserting therein after the words "entitled to receive such communication" the words "in accordance with international law".

21. **One** delegation proposed that principle 17 **(3) (renumbered 18 (3))** in the final draft of the Body of Principles as contained in the present report) be amended in order to enable a prison authority, in **exceptional** circumstances to be specified **by** law, temporarily to suspend or restrict the right of access by a detained or imprisoned person to his legal counsel without the need for prior recourse to a judicial or other authority but with prompt **review** by such an authority thereafter. **As** the proposal was not retained, the delegation underlined that its interpretation of the **term** "judicial or other authority**" as defined in the "Use of **terms**" section of the draft Principles did not include prison authorities.

22. One delegation **suggested** that the phrase "undue advantage" in principle 21 (renumbered 22 in the final draft of the Body of Principles as contained in the present report) added nothing to the idea of compelling and that the text could be simplified. Others **acknowledged** that "undue advantage" neither **added** to nor detracted from the **notion** of compelling but urged **that** the present drafting be retained since the suggested redrafts created other problems.

23. One delegation **noted** the importance of principle 22 (renumbered 23 in the final draft of the **Body of** Principles as contained in the **present** report) **as not** serving to decrease **freedom** of action **of** **detained** or imprisoned persons to participate voluntarily in medical **experiments**.

24. The Working Group considered a suggestion to replace in principle 23 (renumbered 24 in the **final** draft of the Body of Principles as contained in the present report) the words "Proper examination shall be offered to a detained or **imprisoned** person" by the words "Proper examination shall **be** conducted regarding a detained or imprisoned **person**", taking **into account** rule 24 of the Standard Minimum Rules for the Treatment of Prisoners. The Working Group noted that the scope **rational persons** of the draft Body of Principles was broader than that of the Standard Minimum Rules and that a flexible formulation **was more** appropriate in the **present context**. It is however **understood** that principle 23 **should not be** interpreted as modifying in any way rule 24 of the Standard Minimum Rules.

25. In principle 31 (renumbered 32 in the final draft of **the** Body of Principles as contained in the present report), the Working Group agreed to delete the concluding words of paragraph 2 ("if the latter authority so requests"), as suggested by the Sub-Commission's **Working Group** on Detention.

26. In relation to principle 32 (renumbered 33 in the final draft of the Body of Principles as **contained** in the present report), the Working Group considered a proposal to restrict the circle of persons entitled to **make a** complaint in case of torture or other cruel, inhuman or degrading treatment. The sponsor of the proposal explained that, while she agreed that members of the family or any other persons having **knowledge** of the case should be entitled to **report** a case of torture, **some** legal **systems** did not, **as a** rule, allow for the presentation of **complaints** by persons **whose interests** had not been infringed. She therefore suggested that the right of members of the family and **other** persons having knowledge of **the** case to **lodge** complaints **with the** authorities **be** provided for only in **those** cases **where the detainee** or his counsel were not in **a position** to exercise the right in question.

27. Some delegations expressed preference **for** the approach reflected in the initial text. They observed **that** torture **was** a crime and that it should be open to as large a number of persons as **possible** to **set criminal proceedings** in motion. It **was also remarked** that the proposed recasting of paragraph 1 of the principle raised the question of **the** point in time **at** which **the** members of the **family** or any other persons having **knowledge** of the case **would** be entitled to exercise the rights dealt with in the principle.

28. **Other delegations** indicated **that** they could go along with the proposed change. It was observed that **paragraph 1 of principle 32** had to do **not with the**

question of the public authorities' response to allegations of torture - a question which was dealt with in paragraph 2 of the principle, as well as in paragraph 3 of principle 7 - but with the much more limited question of the ways in which authorities could be alerted to cases of torture. The remark was made that the answer to the latter question, whether liberal or restrictive, was of no consequence as regards the prohibition of torture and other cruel or inhuman treatment embodied in principles 6 and 7. As for the argument reflected in the last sentence of paragraph 25 above, it was suggested that the matter be left to domestic legislations.

29. The Working Group agreed to introduce in principle 32 the suggested distinction between, on the one hand, the detainee and his counsel (covered in paragraph 1) and, on the other, members of the family and other persons having knowledge of the case (covered in paragraph 2). The Working Group also agreed to transfer the provision concerning confidentiality to a separate paragraph so as to make it applicable to both paragraphs 1 and 2. Former paragraph 2 was accordingly renumbered 4.

30. In principle 34 (renumbered 35 in the final draft of the Body of Principles as contained in the present report), the Working Group agreed to replace the phrase "rules on civil liability" in paragraph 1 by "rules on liability provided by national law".

31. In principle 37 (renumbered 38 in the final draft of the Body of Principles as contained in the present report), the Working Group added at the end the words "pending trial", as suggested by the Sub-Commission's Working Group on Detention, in order to clarify the text.

III. DRAFT BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT

Scope of the Body of Principles

These Principles apply for the protection of all persons under any form of detention or imprisonment.

Use of terms

For the purposes of the Body of Principles:

(a) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

(b) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;

(c) "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence;

(d) "Detention" **means** the condition of detained persona as defined **above**;

(e) "Imprisonment" means the condition of imprisoned persona **as defined above**;

(f) The words "a judicial or other authority*" mean a judicial or other authority under the law whose status and **tenure** should afford the strongest possible guarantees of **competence**, impartiality and independence.

Principle 1

All persona under any form of detention or imprisonment shall be treated in a **humane** manner and with respect for the inherent dignity **of** the human person.

Principle 2

Arrest, detention or imprisonment shall only be carried out strictly in **accordance** with the provisions of the law and by competent officials or persona **authorized** for that purpose.

Principle 3

There **shall** be no **restriction** upon or derogation **from any of** the human rights of **persons** under **any form** of detention or imprisonment **recognized** or existing in any State pursuant to law, conventions, regulations or **custom** on the pretext that this Body of **Principles does not recognize** such rights or that it recognizea them to a lesser extent..

Principle 4

Any form of detention or imprisonment and all **measures** affecting the human rights **of a person under any form of** detention or imprisonment **shall** be ordered by, or **be subject** to the effective control of, a judicial or other **authority**.

Principle 5

1. These Principles shall be applied to all persona **within the** territory of any **given State**, without distinction of any kind, such as race, colour, **sex**, language, **religion** or religious belief, political or **other** opinion, national ethnic or social origin, property, birth or other **status**.

2. Measures **applied** under the law and designed solely to protect the rights and special **status** of **women, especially** pregnant women and nursing mothers, children and **juveniles**, aged, sick or handicapped **persons shall** not be deemed **to be** discriminatory. The need for, and the application of, such measures shall always **be subject** to review by a judicial or other authority.

Principle 6

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.+ No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Principle 7

1. States should prohibit by law any act contrary to the rights *and* duties contained in these Principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.

2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

3. Any other person who has grounds to believe that a violation of the Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

Principle 8

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

Principle 9

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

* The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing or of his awareness of place and the passing of time.

Principle 10

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

Principle 11

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Principle 12

1. There shall be duly recorded:
 - (a) The reasons for the arrest;
 - (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
 - (c) The identity of the law enforcement officials concerned;
 - (d) Precise information concerning the place of custody.
2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Principle 13

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

Principle 14

A person who does not adequately **understand or speak the language used** by the authorities responsible for **his arrest, detention or imprisonment** is entitled to receive promptly in a language **which he** understands the information referred to in principles 10, 11, paragraph 2, 12, paragraph 1, **and 13** and to have the **assistance, free of charge if necessary, of an interpreter in connection** with legal proceedings subsequent to his arrest.

Principle 15

Notwithstanding the **●** **exceptiona** contained in principle 16, paragraph 4, and principle 18, paragraph 3, **communication of the detained or imprisoned person with the outside world, and in particular his family or counsel,** shall not be denied for more than a matter of **days**.

Principle 16

1. Promptly after arrest **and after each transfer** from one place of detention or imprisonment to another, **a detained or imprisoned person** shall **be** entitled to notify or to **require** the competent **authority to notify members of his** family or **other appropriate persons of his choice of his arrest,** detention or imprisonment or **of the transfer and of the place where he is kept** in custody.
2. If a detained or imprisoned **perason is a foreigner, he shall also be promptly** informed **of** his right to communicate **by appropriate** means with a consular post or the diplomatic **mission of the State of which he is a national or** which is otherwise **entitled to receive** such communication in accordance with international law or with the representative of the competent international organisation, if he is a refugee or **is** otherwise under the protection **of** an intergovernmental organisation.
3. If a detained or imprisoned **person is a juvenile or is** incapable of **understanding his** entitlement, the competent authority shall on its own **initiative** undertake the notification **referred to in** this principle. Special attention shall **be given** to notifying parents or guardians.
4. Any notification referred to in this principle shall **be** made or permitted to be made without delay. The competent authority **may** however delay a notification for a reasonable period where exceptional **needs** of the investigation so **require**.

Principle 17

1. A detained person shall **be** entitled to have the **assistance of a** legal counsel. He shall be informed **of** his right by the **competent authority** promptly after arrest and shall be provided with reasonable **facilities** for exercising it.

2. If a detained person does not **have a** legal counsel. of his **own** choice, he shall be entitled to **have a** legal counsel assigned to **him by a** judicial or **other** authority in all cases where **the** Interests of justice so **require** and without payment by him **if** he does **not have** sufficient means **to pay**.

Principle 18

1. A detained or imprisoned person shall be **entitled** to communicate and consult: with **his** legal counsel.
2. A **detained** or imprisoned person **shall** be allowed adequate time and **facilities** **for** consultations with his legal counsel.
3. The right of a detained or imprisoned person to be **visited** by and to consult and communicate, without delay or **censorship** and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified **by law** or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maint. 'n security and good order.
4. Interviews between a detained or imprisoned person and his legal counsel may **be** within sight, but not within the hearing, of a law enforcement official.
5. Communications between a detained or imprisoned person and his legal counsel mentioned **in** this principle shall be inadmissible as evidence against **the detained** or imprisoned person unless they are connected with a continuing or contemplated crime.

Principle 19

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside **world**, subject **to** reasonable conditions and restrictions as specified by law or lawful regulations.

Principle 20

If a detained or imprisoned person so requests, ha shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

Principle 21

1. It shall **be** prohibited to take undue advantage of the **situation** of a **detained** or imprisoned person for the purpose of compelling him to confess, to **incriminate** himself otherwise or to testify against any other person.

2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

Principle 22

No detained or imprisoned person shall, even with his consent, be subjected to any medical **or** scientific experimentation which may be detrimental to his health.

Principle 23

1. The duration **of** any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.

2. **A** detained or imprisoned person, or his counsel when provided by law, shall have access to the information described above,

Principle 24

A proper medical examination shall be offered to a detained or imprisoned person **as** promptly **as** possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This **care** and treatment shall be provided free of charge.

Principle 25

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to **ensure** security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

Principle 26

The fact that a detained or imprisoned person underwent a medical **examination**, the name of the physician and the results of such an examination shall be duly recorded. **Access** to such records shall be ensured. Modalities **therefor** shall **be** **in** accordance with relevant rules of domestic law.

Principle 27

Non-compliance with these **Principles** in obtaining evidence shall be taken **into** account in determining the admissibility **of** such evidence against a detained or imprisoned person.

Principle 28

A detained or imprisoned **person** shall have the right to obtain within the limits **of** available resources, if **from** public **sources, reasonable quantities of** educational, cultural and informational material, **subject to reaasonable** conditions to ensure security and good order in the place of detention or imprisonment.

Principle 29

1. In order to **supel:vise** the strict observance **of** relevant laws and regulations, places **of** detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, **a competent** authority distinct from the authority directly in charge of the administration of the **place** of detention or imprisonment.

2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places **of** detention **or** imprisonment in **accordance** with paragraph 1, subject to reasonable conditions to ensure security and good order in such places.

Principle 30

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and **the** authorities competent to impose such punishment shall be specified **by** law or lawful regulations and duly published.

2. A detained **or** imprisoned person shall have the right to **be heard** before disciplinary action is taken. He shall have the right to bring such action to higher authoritiss for review.

Principle 31

The appropriate authorities shall endeavour to ensure, according to domestic **law**, assistance when noded to depondent, and in particular minor, members **of** the families of detained or imprisoned **persons** and shall devote a particular **measure** of care to tho appropriate custody of children left without supervision.

Principle 32

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial **or** other authority to challenge the lawfulness of his detention **in** order to obtain his release without **delay**, if it is unlawful.

2. The proceedings referred to in paragraph 1 shall be simple and expeditious and at no cost for detained persons without **adequate means**. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

Principle 33

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or **degrading** treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when **necessary**, to appropriate authorities vested **with reviewing or** remedial powers.

2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1, a member of the family of the detained or imprisoned Person or any other person who has knowledge of the **case may** exercise such rights.

3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or in case of **inordinate** delay, the complainant shall be entitled to bring it before **a** judicial or other authority. Neither the detained or imprisoned person nor **any** complainant under **paragraph 1** shall suffer prejudice for making a request or complaint.

Principle 34

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the **cause** of death or disappearance **shall** be held by a judicial or other authority, either on its own motion or at the instance of a member of the family **of such a** person or any person who has knowledge of the case. When circumstances so warrant, **such an** inquiry shall be held on the same procedural basis whenever the death or **disappearance** occurs shortly after the termination of the detention or imprisonment. The findings **of** such inquiry or a report thereon shall be made available upon request **unless** doing so would jeopardize an ongoing criminal investigation.

Principle 35

1. Damage incurred because of **acts or omissions** by **a** public official contrary to the rights contained in these Principles shall be compensated according to the applicable rules on liability provided by domestic law.

2. Information required to be recorded under these Principles shall be **available** in accordance with procedures provided by national **law** for use in claiming compensation **under this** Principle.

Principle 36

1. A detained person **suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law** in a public trial at which **he has had all the guarantees necessary for his defence.**
2. The arrest or detention **of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.**

Principle 37

A person detained on a criminal **charge shall be** brought before a **judicial** or other authority provided **by law promptly after his arrest.** Such authority shall decide without delay upon **the lawfulness and necessity** of detention. No person may be kept under detention **pending investigation or trial** except upon the written order of such an authority. A detained person **shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.**

Principle 38

A person detained on a criminal **charge** shall be entitled to trial within a reasonable time or to **release pending trial.**

Principle 39

Except in special **cases provided for by law,** a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides **otherwise** in the interest **of the administration of justice, to release** pending trial subject to the conditions that **may be imposed in accordance with the law.** Such authority shall keep the **necessity** of detention under review.

General clause

Nothing in the present Body of Principles shall be construed as restricting or derogating **from any right defined in the International Covenant on Civil and Political Rights.**
