



General Assembly

Distr.
GENERAL

A/54/426
1 October 1999

Original: ENGLISH

Agenda item 116 (a)
Human rights questions: implementation of
human rights instruments

Torture and other cruel, inhuman or degrading treatment or punishment

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report submitted by Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, in accordance with Assembly resolution 53/139 of 9 December 1998.

Annex

Report on torture and other cruel, inhuman or degrading treatment or punishment, submitted by Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 53/139

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I. Introduction

1. The present report has been submitted by the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 53/139 and resolution 1999/32 of the Commission on Human Rights. It is the first written report to be submitted to the General Assembly 1/ since the forty-first session of the Commission on Human Rights, at which the Commission adopted resolution 1985/33, in which it decided to appoint a special rapporteur to examine questions relevant to torture.
2. The Special Rapporteur, Sir Nigel Rodley, was appointed by the Chairman of the Commission on Human Rights in 1993, pursuant to resolution 1993/40, when his predecessor, Peter Kooijmans, resigned. The Special Rapporteur has subsequently presented six annual reports to the Commission on Human Rights; his predecessor presented eight annual reports to the Commission on Human Rights.
3. The present report covers the period from 15 December 1992 to 31 August 1999, the period reported on by the present Special Rapporteur. The period from 1985 to 1992 is summarized in paragraphs 4 to 6 below. In chapter II, the Special Rapporteur provides an interpretation of the mandate entrusted to him and the legal framework in which it has been implemented. Chapter III covers the methods of work and the activities undertaken since 1993. Chapter IV presents issues of special concern to the Special Rapporteur. Finally, chapter V contains the Special Rapporteur's concluding remarks and recommendations.

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III. Methods of work and other activities since 1993

13. The Special Rapporteur discharges his mandate mainly on the basis of information brought to his attention by non-governmental organizations, Governments, individuals and intergovernmental organizations. These communications contain specific cases of alleged torture and cruel, inhuman or degrading treatment or punishment and general information about questions related to torture.

14. While many of the organizations and individuals providing allegations are well known to the Special Rapporteur and other United Nations human rights officials as sources of credible information, sometimes allegations are received from less well-known or entirely new sources. The main criteria applied by the Special Rapporteur in the evaluation of such allegations are the degree of detail they contain concerning the victims and the precise circumstances of the given incident. Where doubt persists, the Special Rapporteur will seek corroboration of these allegations from other sources of undisputed credibility. The way in which the sources of allegations respond to the Special Rapporteur's requests for comments on the contents of government replies and/or for additional details to clarify the cases they submitted will provide the Special Rapporteur with a basis for assessing the reliability of the sources. Where the information is considered to be credible, the Special Rapporteur transmits the allegations to the Governments concerned, either in the form of an urgent appeal or a letter.

A. Letters of general allegation

15. In the first report submitted by the Special Rapporteur to the fiftieth session of the Commission on Human Rights, he reported that it was only possible to send one letter to Governments transmitting information alleging violations of the prohibition of treatment within the Special Rapporteur's mandate, regardless of the incidence and quality of the information addressed to the Special Rapporteur. At the time he noted that this was an unfortunate situation: first, because it is desirable for Governments to be in possession of relevant information as expeditiously as possible; and second, because when information is transmitted later in the year, little time is left for the receipt of a response that can be reflected in the Special Rapporteur's report for the year in question. This leads to even an initial exchange of correspondence being spread across more than one report. This, in turn, makes it difficult for a reader to obtain a properly balanced perspective concerning the original allegations or to assess the significance of any later governmental response. Moreover, much information that arrives after the transmittal of a letter to a Government must then wait until the following year before being transmitted to that Government. Further, if any response from a Government seems to the Special Rapporteur to warrant elucidation, he is only in a position to seek that elucidation within the context of the next letter of transmittal of information (see E/CN.4/1994/31, paras. 9 and 10). Regrettably, the limited resources of the Office of the United Nations High Commissioner for Human Rights continue to dictate that only one letter can be transmitted each year to Governments.

16. Between December 1993 and 10 December 1998, the Special Rapporteur transmitted 330 letters, involving approximately 3,357 individuals, as well as 34 groups involving approximately 905 individuals.

17. Since December 1993, letters have been transmitted to the following 127 countries: Afghanistan, Algeria, Albania, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belgium, Bhutan, Bolivia, Brazil, Bulgaria, Cambodia, Cameroon, Canada, Chad, Chile, China, Colombia, Congo, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo (former Zaïre), Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Guinea-Bissau, Ethiopia, France, Gambia, Georgia, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mexico, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Trinidad and Tobago, Togo, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe. The Special Rapporteur has also transmitted information to the Palestinian Authority.

B. Urgent appeals

18. An urgent appeal is made on the basis of information received by the Special Rapporteur expressing concern about the fact that a person is at risk of being subjected to torture. Such concern may be based, *inter alia*, on accounts by witnesses of the person's physical condition while in detention, or on the fact that the person is kept incommunicado, a situation which may be conducive to torture. The Special Rapporteur, when making a determination as to whether there are reasonable grounds to believe that an identifiable risk of torture exists, takes into account a number of factors, any one of which may be sufficient, though generally more than one will be present. These factors include: (a) the previous reliability of the source of the information; (b) the internal consistency of the information; (c) the consistency of the information with information on other cases from the country in question that has come to the Special Rapporteur's attention; (d) the existence of authoritative reports of practices of torture from national sources, such as official commissions of inquiry; (e) the findings of other international bodies, such as those established in the framework of the United Nations human rights machinery; (f) the existence of national legislation, such as that permitting prolonged incommunicado detention, that can have the effect of facilitating torture; and (g) the threat of extradition or deportation, directly or indirectly, to a State or territory where one or more of the above elements are present.

19. The urgent appeal procedure is not per se accusatory, but essentially preventive in nature and purpose. The Government concerned is merely requested to look into the matter and to take steps aimed at protecting the right to physical and mental integrity of the person concerned, in accordance with the international human rights standards.

20. In view of the fact that the urgent appeal contains information that is extremely time-sensitive, the appeal is addressed directly to the Ministry for Foreign Affairs or relevant department of the country concerned.

21. The Special Rapporteur, where appropriate, sends urgent appeals jointly with other organs of the United Nations human rights machinery.

22. Between December 1993 and 10 December 1998, the Special Rapporteur transmitted 712 urgent appeals on behalf of approximately 2,959 individuals and 44 groups involving 2,280 individuals. During the period under review, from 10 December 1998 to 31 August 1999, the Special Rapporteur transmitted 113 urgent actions to 41 countries.

23. The Special Rapporteur has sought to cooperate with holders of other Commission mandates to avoid duplication of activity in respect of country-specific initiatives. Thus, he has sent urgent appeals or transmitted information alleging violations within his mandate to Governments jointly with the following mechanisms: the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention, and the Special Rapporteurs on extrajudicial, summary or arbitrary executions; the independence of judges and lawyers; freedom of opinion and expression; violence against women; the Sudan; the Democratic Republic of the Congo; Nigeria; Burundi; the Islamic Republic of Iran; Afghanistan; Myanmar.

24. Since December 1993, urgent appeals were transmitted to the following 83 countries: Algeria, Bahamas, Bahrain, Bangladesh, Belgium, Bhutan, Bolivia, Brazil, Bulgaria, Cameroon, Canada, Chad, Chile, China, Colombia, Côte d'Ivoire, Cuba, Democratic Republic of the Congo (former Zaire), Denmark, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Gambia, Georgia, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iraq (Islamic Republic of), Israel, Japan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Morocco, Myanmar, Namibia, Nepal, Niger, Nigeria, Pakistan, Norway, Peru, Qatar, Republic of Korea, Russian Federation, Rwanda, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Trinidad and Tobago, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia and Zimbabwe. The Special Rapporteur has also transmitted urgent actions to the Palestinian Authority.

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