COUNCIL OF EUROPE

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25TH MEETING OF NON-GOVERNMENTAL ORGANISATIONS HOLDING CONSULTATIVE STATUS WITH THE COUNCIL OF EUROPE AND INTERESTED IN HUMAN RIGHTS QUESTIONS

Strasbourg, 4 May 1976

AGENDA ITEM 6

Application within the Council of Europe of the UN General Assembly declaration on torture and other cruel, inhuman or degrading treatment or punishment

NOTE SUBMITTED BY AMNESTY INTERNATIONAL

London, 5 April 1976

On 9 December 1975, the United Nations General Assembly, by its Resolution 3452 (XXX), unanimously adopted the Declaration on the Protection of all Persons from being subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment "as a guideline for all states and other entities exercising effective power". It is, indeed, ultimately the responsibility of states to eliminate torture in their territories by securing strict observance of the provisions contained in the declaration. However, there can be little doubt that, for the declaration to become more than a symbolic piece of paper in many parts of the world, a long term program of concerted international action is required, in which governments, governmental and non-governmental bodies and concerned individuals cooperate to promote the principles of the declaration, and to take appropriate measures towards its full implementation.

The Council of Europe, which has provided the framework for the only effective international human rights enforcement mechanism to date, is clearly in an eminent position to contribute to such efforts. Recommendation 768 (1975) of the Parliamentary Assembly on torture in the world, and its accompanying report (Doc. 3668), already marked concrete progress in this regard. The current work on a European code of police ethics is a unique example of specialist cooperation between governmental and non-governmental bodies with the common objective of safeguarding fundamental human rights.

While the United Nations and its agencies now have began to undertake the formidable task of developing procedures and mechanisms for implementation of the declaration, it would seem appropriate for the Council of Europe to assess its own potential in this regard. Amnesty International recommends that the 25th meeting of NGO's holding consultative status with the Council of Europe and interested in human rights questions consider formulating proposals to the Committee of Ministers and other appropriate organs of the Council of Europe. It is suggested that the following points be given special attention.

1. All member states of the Council of Europe should be requested, as a matter of urgency, to incorporate into national law the principles and provisions of the UN declaration on torture.

2. The declaration should be given the widest possible dissemination, through all appropriate channels, and with special regard to relevant educational programs and to the training of law enforcement personnel.

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3. On 11 October 1974, the Inter-Parliamentary Union, at its 61st Inter-Parliamentary Conference in Tokyo, unanimously adopted a resolution on "the problem of torture in the world", in which the parliaments of all states were requested, inter alia, to "make the indispensable improvements to existing legislation, particularly by establishing in each country a monitoring machinery, independent of the Executive, invited to intervene when attacks on human dignity are reported". As mentioned in the 1975 report of the Parliamentary Assembly of the Council of Europe on torture in the world (Doc. 3668, paragraph 4), the present situation in the member States of the Council of Europe is relatively reassuring insofar as the question of torture is concerned. It is quite clear that, if a monitoring machinery of the type suggested by the IPU is to be introduced, the democratic countries of Europe offer the kind of political conditions that would constitute a prerequisite for such a development.

It is equally clear that, if the parliaments of these countries do not demonstrate a willingness to establish such monitoring machinery, it is even less likely that this will be done where it is urgently needed, namely in those countries where the practice of torture is, or threatens to become, endemic. It would therefore seem important that this question be pursued in the framework of the Council of Europe.

4. The importance of professional codes of ethics as a means of contributing to the prevention of human rights abuses, and especially torture, appears to have been widely recognised. Codes of ethics for law enforcement personnel are currently being developed both in the Council of Europe and in the United Nations. The World Medical Association has, on 10 October 1975, adopted the Declaration of Tokyo, which establishes stringent guidelines for medical personnel on the problem of torture, and the UN General Assembly, by its Resolution 3453 (XXX) of 9 December 1975, has requested the World Health Organisation to the study and elaboration of principles of medical ethics relevant to the protection against torture.

No attempt has so far been made on the inter-governmental level to develop a comparable code of ethics for the legal profession, although members of this profession are similarly prone to become caught up in the torture process. A Council of Europe initiative on this question, in conjunction with interested non-governmental organisations, would be invaluable.

5. Recommendation 768 (1975) of the Parliamentary Assembly of the Council of Europe on the problem of torture in the world, asked the Committee of Ministers to examine the possibilities for member States to revise their conventions on extradition and mutual assistance in legal matters concluded with countries where torture is practised or tolerated by governmental bodies, and to study the practices followed by those countries in the matter of expulsion. Complimentary to the question of extradition and expulsion to countries where torture is practised, are questions related to the acceptance of refugees and exiles from such countries. The effects of the September 1973 coup in Chile have demonstrated that there is room for improvement in this field, not least in terms of international cooperation. The Council of Europe should, with due regard for existing national and international rules, consider giving special attention to this matter, with a view to assisting governments and non-governmental bodies concerned, and, possibly, with a view to determining the appropriateness of formulating a common policy.

6. In order to assess these and other possible avenues of action within the framework of the Council of Europe, consideration should be given to the possibility of convening an international seminar under the auspices of the Council of Europe, comprising representatives of member States, appropriate Council of Europe organs and interested non-governmental organisations. In this or another appropriate context, consideration should be given to the larger question of the relation between human rights and foreign policy, and of the role the Council of Europe could play in this regard.

The report of the Parliamentary Assembly on torture in the world (Doc. 3668) concludes by stating that "at present there are few means of preventing torture outside the member States of the Council of Europe... In view of the Council's mission as a custodian of human rights, our Assembly should contribute actively to stimulating in the public a strong resistance to the practice of torture in the Council's member States and throughout the world". It is the hope of Amnesty International that the suggestions given in this note may be of some value to the Council of Europe in its continuing work for the universal protection of human rights.

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21 January 1977 (Ennals)

27th MEETING OF NON-GOVERNMENTAL
OF[illegible]IONS HOLDING CONSULTATIVE STATUS
WITH THE COUNCIL OF EUROPE AND INTERESTED
IN HUMAN RIGHTS QUESTIONS

25 January 1977

Agenda Item 5: NGO SEMINAR ON "TORTURE AND HUMAN RIGHTS"
Note submitted by Amnesty International

1. Amnesty International was very pleased to be informed by M. Roland Muller, Head of the Human Rights Directorate, by letter of 6 January 1977, that the Committee of Ministers had accepted the NGO proposal to conduct a seminar on "torture and human rights" ~~under its auspices~~, and granted a sum of Ffrs 30.000 towards the cost of organizing such a seminar.

2. A preliminary outline for the seminar was submitted by Amnesty International to the 26th NGO meeting in September 1976. On the basis of this outline we now propose the following program for your consideration:

PURPOSE: To examine principle and practice regarding the observance of certain fundamental human rights, with a view to better and more systematic implementation of existing national and international procedures designed to prevent torture and other cruel, inhuman or degrading treatment or punishment;

by giving special consideration to

a) domestic application and implementation of international instruments and standards for the protection of all persons deprived of their liberty against torture, including a reference to professional codes of ethics;

b) human rights as determining factor in international relations, taking into account bilateral and multilateral relations between governments as well as the role and potential of intergovernmental bodies in this regard.

The results of the seminar would be submitted to the Human Rights Directorate for transmittal to appropriate Council of Europe organs including the Committee of Ministers, the European Commission of Human Rights and the European Court of Human Rights, to Council of Europe member states, to all NGOs holding consultative status with the Council of Europe and interested in human rights ques[illegible], and naturally, to all participants not covered by these catago[illegible]. Furthermore, Amnesty International, in conjunction with other NGOs, would endeavour to introduce the seminar's conclusions and recommendations either in whole or in part, into debates at the thirty-second session of the United Nations General Assembly as relevant and appropr[illegible]te.

3. A three-day program is proposed for the seminar:

Day 1: key speakers, preliminary deliberations (in plenary)
Day 2: discussion of the two main topics in two working groups
Day 3: reports of the working groups, conclusions and recommendations (in plenary)

It is furthermore proposed that the seminar be held just before or after the autumn session of the Parliamentary Assembly which is scheduled for Wednesday 5 - Thursday 13 October. It is advisable that definite dates be set at this NGO meeting.

4. Participants would be invited from the following categories, to a maximum of 80:

a) Council of Europe member governments
b) Council of Europe non-member Western governments
c) selected other governments
d) the Holy See
e) Members of the Parliamentary Assembly
f) members of the European Commission of Human Rights
g) members of the European Court of Human Rights
h) non-governmental organizations in consultative status with the Council of Europe interested in human rights questions, including their national affiliates
i) national human rights/civil liberties NGOs from Council of Europe member states not affiliated to any of the NGOs under h.
j) experts in their individual capacity

It is suggested that the categories a-d be invited to send observers rather than participants.

5. As stated previously, Amnesty International is prepared to undertake full planning and organization of the seminar, in conjunction as appropriate and necessary with the Human Rights Directorate. Any assistance from other interested NGOs would of course be most welcome, in particular regarding the content of the seminar and the invitation policy (including the number of participants to be invited from each category). It is proposed that on these two points, agreement in principle is reached to the maximum possible extent at this meeting, and that additional comments and suggestions should reach Amnesty International before 1 March. This would allow Amnesty International to refine the various proposals as necessary, to send out letters of invitation, to commission working papers and to prepare a list of other documentation before the next NGO meeting. Progress would be reviewed at that meeting, and it is proposed that a preparatory meeting be held during the morning with all those directly interested and involved.